Supreme Court Overrules the 'Chevron Doctrine' and Changes the Face of Federal Regulatory and Administrative Law

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Loper Bright Enterprises v. Raimondo, 144 S. Ct. 2244 (June 28, 2024)

In *Loper Bright Enterprises v. Raimondo*, the U.S. Supreme Court overruled its 40-year-old precedent known as the "*Chevron* doctrine." Under *Chevron*, federal courts were required to defer to administrative agencies when interpreting statutes that were ambiguous. The Supreme Court's ruling in *Loper* signals a sea change in federal regulatory and administrative law. While the full impact of *Loper* will unfold over time, the ruling is expected, at a minimum, to weaken the enforcement powers of federal agencies and potentially lead to increased or prolonged litigation.

The *Chevron* Doctrine

In 1984, the Supreme Court issued its opinion in *Chevron, U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, which adopted a two-step approach for federal courts to use in interpreting statutes administered by federal agencies. First, courts had to determine whether Congress, through the statute, had spoken directly to the question at issue. If so, Congress' clear intent controlled. If the statute was ambiguous—i.e., susceptible to more than one reasonable interpretation—the second step required courts to defer to the administrative agency's interpretation as long as that interpretation was permissible (i.e., not arbitrary, capricious, or manifestly contrary to the statute).

In practice, this two-step formula often resulted in federal agencies exercising broad power in interpreting federal statutes. Applying so-called "*Chevron* deference," federal courts would frequently defer to the agency's "permissible construction" of the statute at

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issue. But *Chevron* remained controversial, with growing speculation in recent years that the demise of *Chevron* might be imminent.

Loper Bright Enterprises v. Raimondo

Those predictions were realized during the Supreme Court's 2023-24 Term. In *Loper Bright Enterprises v. Raimondo* (consolidated with another case, *Relentless, Inc. v. Dep't of Commerce*), a divided Supreme Court overruled *Chevron*. The cases concerned an interpretation of a federal statute—the Magnuson-Stevens Fishery Conservation and Management Act (MSA)—by a federal administrative agency, the National Marine Fisheries Service (NMFS). Purporting to act according to the statute, the NMFS had promulgated a rule requiring herring fisherman in U.S. territorial waters of the Atlantic to contract and pay for outside "observers" to collect data onboard the vessels to support conservation and management of the fishery.

Two operators of Atlantic herring fishing vessels challenged the rule in separate federal lawsuits on the ground that the MSA did not authorize such a rule. In both cases, the courts ruled against the fishermen because, applying "*Chevron* deference," the NMFS's interpretation of the statute was permissible. The Supreme Court granted review on the question of whether *Chevron* should be overruled or clarified.

A majority of six justices held that the *Chevron* doctrine should be overruled entirely. Writing for the majority, Chief Justice Roberts based the Supreme Court's ruling on two principal points. First, Chief Justice Roberts invoked the history of the federal courts and the underlying notion that (quoting Alexander Hamilton) "the final 'interpretation of the laws' would be 'the proper and peculiar province of the courts.'" That "traditional understanding" of the judicial role, Chief Justice Roberts wrote, continued into the twentieth century. In the context of the administrative state, federal courts would defer to the determinations by administrative agencies on "*findings of fact*" (as long as those findings were supported by evidence) but would not "extend similar deference to agency resolutions of questions of *law*."

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Second, the majority discussed the Administrative Procedure Act (APA), which was enacted in 1946 and "delineates the basic contours of judicial review of [administrative] action." The APA provides that courts will decide "all relevant questions of law." Thus, Chief Justice Roberts stated, the APA "codified" the "traditional understanding of the judicial function, under which courts must exercise independent judgment in determining the meaning of statutory provisions."

In the majority's view, *Chevron* could "not be squared" with the APA. Nowhere, the majority wrote, does the APA contemplate *Chevron*'s "dramatic departure" from the traditional understanding of the courts' role in interpreting ambiguous statutes, which is a quintessential question of law. One of the traditional justifications for *Chevron* deference was that administrative agencies usually have technical or scientific expertise in the industry or subject being regulated. The majority flatly rejected that argument: "[A]gencies have no special competence in resolving statutory ambiguities. Courts do."

Nor, held the majority, should *Chevron* remain governing authority under the doctrine of *stare decisis*. Noting the numerous modifications and refinements of *Chevron* since 1984, the majority deemed the doctrine so "unworkable" that it could not be reasonably relied upon as it had become "an impediment, rather than an aid, to … saying what the law is." Forty years later, the majority stated bluntly, "all that remains of *Chevron* is a decaying husk with bold pretensions."

While federal courts may still give administrative interpretations of law the "respect" they were afforded historically, *Chevron* "insist[ed] on much more." Going forward, federal courts must "do their ordinary job of interpreting statutes, with due respect for the views of the Executive Branch," while also "exercis[ing] their independent judgment in deciding whether an agency has acted within its statutory authority."

Justice Thomas wrote a concurring opinion, expressing his view that *Chevron* "violates our Constitution's separation of powers." Justice Gorsuch also concurred, offering a lengthy discourse on the history and nature of *stare decisis*. Like the majority, Justice Gorsuch

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concluded that over the years, *Chevron* had revealed itself to be "unworkable, unfair, and at odds with our separation of powers."

Justice Kagan authored a dissenting opinion, joined by Justice Sotomayor and, in the *Relentless* case, by Justice Jackson. (Justice Jackson did not participate in the *Loper* case.) The dissent pulled no punches in its criticism of the majority ruling. Justice Kagan described *Chevron* as "a cornerstone of administrative law," "part of the warp and woof of modern government," under which "Congress, courts, and agencies … all have operated for decades." In her view, the Supreme Court majority had upended that framework in a "bald assertion of judicial authority," trading "[a] rule of judicial humility [for] a rule of judicial hubris."

The dissent also took issue with the majority's discussion of judicial history, the APA, and the proper allocation of "primary authority over regulatory matters." The dissent predicted "large-scale disruption" from the majority's ruling.

Key Takeaways

- In *Loper*, the Supreme Court overruled the "*Chevron* doctrine," which for 40 years had required courts to defer to administrative agencies' interpretations of ambiguous federal statutes as long as the interpretations were permissible.
- *Loper* is therefore a highly consequential ruling in federal regulatory and administrative law. Judges will no longer be bound by federal agencies' interpretations of federal statutes and will have more leeway to interpret federal law. As a result, the rulemaking and enforcement powers of administrative agencies will face greater constraints, and litigants may have new opportunities to challenge federal regulations.
- Earlier rulings under *Chevron* remain good law. As the majority opinion explained, "[t]he holdings of those cases that specific agency actions are lawful … are still subject to statutory *stare decisis* despite our change in interpretive methodology."

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