Articles + Publications | May 2, 2023

US Supreme Court to Decide Fate of Chevron Doctrine in Potentially Watershed Administrative Law Case

WRITTEN BY

Misha Tseytlin | Kevin M. LeRoy | Kaitlin L. O'Donnell | Sean Dutton

On May 1, the U.S. Supreme Court granted review in *Loper Bright Enterprises v. Raimondo*, No. 22-451, on the question of whether to overturn or limit *Chevron* deference, the controversial doctrine that requires courts to defer to administrative agencies' interpretations of law under certain circumstances. The Court overruling or limiting *Chevron* would constitute a watershed decision in administrative law, greatly increasing the prospects of businesses, organizations, and individuals successfully challenging administrative action in court under the Administrative Procedure Act (APA). Troutman Pepper — including its nationally recognized Appellate + Supreme Court Practice Group — has successfully brought many APA challenges involving a wide range of industries and issues on behalf of clients nationwide.

By way of background, *Chevron* is a doctrine of judicial deference that generally requires a federal court when reviewing federal agency action to defer to the agency's reasonable interpretation of an ambiguous statute. The *Chevron* doctrine rests on the presumption that in many circumstances, "a statute's ambiguity constitutes an implicit delegation from Congress to the agency to fill in the statutory gaps." *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159 (2000). In practice, *Chevron* deference often gives agencies broad leeway to define the limits of their own statutory authority, making it far more difficult for businesses, organizations, and individuals to challenge agency action successfully in court. While the Supreme Court first introduced the *Chevron* doctrine in 1984, the doctrine has more recently come under intense scrutiny on separation-of-powers grounds from multiple Supreme Court justices and numerous federal judges in lower courts. Nevertheless, the Court has so far avoided the question of whether to overrule the *Chevron* doctrine altogether, going so far as to ignore *Chevron* in recent administrative law cases.

Now, the Court is poised to decide directly whether to overrule or limit the *Chevron* doctrine. In *Loper*, several New Jersey herring fishers challenge the National Marine Fisheries Service's (NMFS) claimed authority under the Magnuson-Stevens Act (the Act) to require fishers to pay the salaries of certain on-board federal observers stationed on the fishers' vessels to monitor their compliance with federal law. The Act itself is silent on the relevant point, but applying *Chevron* deference, the D.C. Circuit (over a dissent) ruled in favor of the NMFS, deferring to the agency's interpretation of the Act. The *Loper* petitioners, joined by 18 states as *amici*, among others, now ask the Court to overrule the *Chevron* doctrine or, at minimum, significantly limit its scope.

If the Court accepts the *Loper* petitioners' invitation to overrule or limit *Chevron*, it would be a landmark moment in administrative law. The judicial scales will no longer be tipped in favor of federal agencies, at least so far as statutory interpretation is concerned, and APA claims challenging the validity of an agency's interpretation of its operating statute would more likely succeed. For now, while we wait for a decision in *Loper*, litigants currently

©2025 Troutman Pepper Locke

engaged, or who expect to be engaged, in APA litigation should assess whether their cases could benefit from a stay pending the Court's decision.

RELATED INDUSTRIES + PRACTICES

- Appellate + Supreme Court
- Business Litigation
- Energy
- Environmental + Natural Resources