

***Chevron* Deference Fact Sheet**

What is *Chevron* Deference?

Chevron deference is a longstanding legal doctrine that helps to prevent judges from striking down regulations based on their own policy preferences.

The doctrine is derived from a 40-year-old Supreme Court case called *Chevron v. NRDC*, which established a framework for judicial review of agency regulations. Applying the doctrine, judges defer to an agency's interpretation of the law that it is charged with implementing, if that interpretation is reasonable.

Notably, the Supreme Court grounded *Chevron* deference in constitutional separation of powers principles. The doctrine respects Congress's decision to delegate authority to an agency. *Chevron* deference also makes sense because agencies have greater expertise about the laws they implement, and unlike federal judges, they are accountable to the public through the democratic process. After all, agencies engage with the public and face congressional oversight; federal judges do not.

Federal courts apply the *Chevron* deference doctrine through a two-step process in cases challenging agency actions. The first step calls on courts to determine whether the law involved clearly provides the answer. If the law is clear, the court considers whether the agency action is lawful based on that clear meaning. If the law is ambiguous or leaves a gap for the agency to fill, however, the court considers whether the agency's interpretation is reasonable. If the agency's interpretation is reasonable, the court defers to it, regardless of whether the interpretation is the "best" one, out of respect for Congress' decision to empower the agency to resolve ambiguities in the law or fill in gaps.

What Threat Does the Supreme Court Pose to *Chevron* Deference?

In *Loper Bright Enterprises v. Raimondo* and *Relentless v. Department of Commerce*, the Supreme will consider whether to abandon or limit *Chevron* deference. Although the cases concern challenges to one National Marine Fisheries Service regulation, the court is not considering the specific rule, but rather the broader questions of whether *Chevron* deference applies where a statute is "silent" on a particular issue and whether *Chevron* should be overruled entirely.

What are the Implications for Rulemaking?

Courts have relied on *Chevron* deference in numerous cases in which courts upheld agency regulations concerning consumer, worker, environmental, civil rights, and public health and safety protections. Without *Chevron* deference, lower court judges, without expertise in regulatory policy issues, would have greater latitude to rule based on their own personal policy preferences. It is possible that many critical safeguards that Americans rely upon to keep their families safe could be struck down.

The result could potentially be a regulatory landscape that is far less stable and predictable than the current one, both for members of the public that benefit from regulations but also for businesses that benefit from having certainty and a dependable regulatory outlook.

A Solution: The Stop Corporate Capture Act

The Stop Corporate Capture Act, H.R. 1507 would codify *Chevron* deference into law.

The Supreme Court will hear oral arguments for *Loper Bright Enterprises* and *Relentless* on January 17, and a decision is expected in late June 2024.