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U.S. Supreme Court Overturns Chevron Deference in Major Change to Federal Administrative Law. How Will This Impact State-Level Proceedings?

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For the last forty years, a cornerstone principle of federal administrative law has been the *Chevron* doctrine. Named for the United States (U.S.) Supreme Court decision in which it was first articulated, *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 468 U.S. 837 (1984), the doctrine required federal courts to defer to an agency's interpretation of a statute if the statute was ambiguous and the agency's interpretation was reasonable. However, on June 28, 2024, the U.S. Supreme Court issued two decisions, *Loper Bright Enterprises v. Raimondo*, Docket No. 22-451, and *Relentless, Inc. v. Department of Commerce*, Docket No. 22-1219, which overturned the *Chevron* doctrine. Instead, federal courts should disregard agency interpretation and instead exercise their independent judgment when deciding whether an agency has acted within its statutory authority. The *Loper Bright* and *Relentless* decisions, in turn, represent a significant shift of power from the executive branch to the federal judiciary.

Briefly, *Loper Bright Enterprises v. Raimondo* involved a Cape May, New Jersey-based fishing company operating in New England waters. Under the Magnuson-Stevens Act ("MSA"), 16 U. S. C. § 1801 et seq., the National Marine Fisheries Services ("NMFS") may require commercial fishing vessels to carry specially trained federal monitors for the purpose of ensuring compliance with all applicable laws, such as those concerning overfishing. While the MSA explicitly requires vessels in certain fisheries to pay the costs of their federal monitors, no such requirement is expressly articulated for the Atlantic herring fishery in which Loper Bright Enterprises ("Loper") participates. In 2013, the New England Fishery Management Council—a regional body that was created by the MSA and implements its regulations through NMFS—promulgated a fishery management plan that allowed the Council to require fishing vessels to pay for the costs of the federal monitors, even though the MSA did not explicitly delegate the Council the authority to do so. Consequently, Loper had to pay approximately $700 per day for federal monitors.

Loper challenged this expense, arguing that the MSA does not authorize NMFS or the Regional Fishery Management Councils to impose industry-funded monitoring requirements for the Atlantic herring fishery. The U.S. Supreme Court not only agreed with Loper on the narrow issue of monitoring costs, but also seized upon the dispute to strike down the *Chevron* deference doctrine entirely on the basis that it conflicts with federal courts'

responsibility under the Administrative Procedure Act, 5 U. S. C. §551 et seq., "to decide whether the law means what the agency says." *Loper Bright Enterprises v. Raimondo*, 603 U.S. ___ 15 (2024).

While the *Loper Bright* and *Relentless* decisions will have significant consequences for a variety of litigation involving federal agencies, the decisions will not directly affect the degree of deference that state courts afford administrative agencies' interpretation or administration of statutes enacted by state legislatures. Twenty-five states, including New Jersey and New York, have independently developed their own legal precedent requiring courts to defer to state agencies' interpretations of the statutes they administer. *See* Martha Kinsella & Benjamin Lerude, *Judicial Deference to Agency Expertise in the States*, State Court Report (last updated June 28, 2024), https://statecourtreport.org/our-work/analysis-opinion/judicial-deference-agency-expertise-states.

The New Jersey Supreme Court in particular has long instructed state courts to defer to administrative agencies' specialized expertise with technical matters, as long as the interpretation offered is not "plainly unreasonable." *See e.g., J.H. v. R&M Tagliareni*, LLC, 239 N.J. 198, 216 (2019) *In re Election Law Enf't Comm'n Advisory Op. No. 01-2008*, 201 N.J. 254, 262 (2010); *Guild of Hearing Aid Dispensers v. Long*, 75 N.J. 544, 575 (1978). New York case law makes it equally clear that courts must defer to an agency's interpretation of a statute as long as it is reasonable, particularly when interpreting the statute involves an understanding of "underlying operational practices or the evaluation of factual data". *See Matter of Peyton v. N.Y.C. Bd. of Standards & Appeals*, 164 N.E.3d 253, 259 (N.Y. 2020); *Howard v. Wyman*, 271 N.E.2d 528, 529 (N.Y. 1971). These standards of agency deference, as well as many of their counterparts throughout the U.S., do not rely upon or otherwise reference the original 1984 *Chevron* decision. As such, they remain "good law" .

In sum, the U.S. Supreme Court's decisions in *Loper Bright and Relentless* will have considerable consequences for federal rulemaking, enforcement actions, and any other agency actions that involve the interpretation of a statute. The decisions will not be as impactful for similar disputes involving state agencies, though, in light of the various deference standards that state courts have developed independently of the now-defunct federal *Chevron* doctrine.

If you have any questions concerning the potential impacts of the *Loper Bright* and *Relentless* decisions on proceedings you are involved in at the federal or state level, feel free to contact Amie C. Kalac (**AKalac@cullenllp.com**), Brendan Mooney (**BMooney@cullenllp.com**), Neil Yoskin (**NYoskin@cullenllp.com**), or Zachary Klein (**ZKlein@cullenllp.com**).

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Practices

- Environmental

Attorneys

- Amie C. Kalac

- Brendan J. Mooney
- Neil Yoskin
- Zachary Klein