

Mors Chevron, Vita Loper: Its End, Effects, and Implications

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Abstract:

The Chevron Deference was a staple of American law for 40 years until it was struck down by the Supreme Court. Now, more than a year into its absence, the implications it leaves for the law are immense.

Article

Almost a year and a half ago, the Supreme Court struck down a standard that had been seen as the precedent of law for almost 40 years: the Chevron deference. Ironed out in 1984, it had been one of the most cited items in the American legal system, used in thousands of cases. The impact of such a powerful piece is highly significant. With this doctrine gone, there was a significant power shift from the executive agencies, which once defined these laws, to the judiciary, which was thrust into the position of interpreter of vague Congressional law. In this position, the authority of many regulatory agencies has been curbed in favor of the interpretation of various local and federal judges. With the judicial system gaining this unprecedented amount of power, this has led to challenges for both Democratic and Republican administrations in undertaking actions. These effects can be seen very clearly even in the short period of time since the deference has ended, as federal agencies find themselves losing power to judicial authorities, struggling to pass legislation, and mired in the court system.

The Chevron deference was established in the Supreme Court case of *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*, decided in 1984.¹ The case originated from a dispute between the Environmental Protection Agency during President Reagan's administration and an environmentalist group, the aforementioned Natural Resource Defense Council. Congress had previously passed amendments to the Clean Air Act in 1977, which outlined that "no stationary source be constructed or modified if the emissions from such source will cause concentrations of a pollutant for which an air quality standard is exceeded",² which was originally interpreted to mean that. The Environmental Protection Agency, using the vague wording of the amendment, created what came to be known as a bubble provision, in which factories were able to make modifications and renovations to their apparatus as long as they did not actively increase the emissions produced within them. The Natural Resource Defense Council sued the government over this, claiming that this violated what was written in the amendment. The Supreme Court under Chief Justice Warren E. Burger, however, found that the agency had broad powers to interpret this phrase due to its lack of detail in a 6-3 majority decision, setting the precedent for what would become the Chevron deference. The deference instructs the courts to default to the interpretation of federal agencies regarding vague laws coming out of Congress. The experts in these agencies would define the extent to which the law would go in a majority of cases.

1. *CHEVRON U. S. A. V. NATURAL RES. DEF. COUNCIL 837 SYLLABUS.*

2. H.R.6161 - 95TH CONGRESS (1977-1978): CLEAN AIR ACT AMENDMENTS OF 1977 | CONGRESS.GOV | LIBRARY OF CONGRESS.

Meanwhile, *Loper Bright Enterprises v. Raimondo*, decided in 2024 under the court of Chief Justice John Roberts, stemmed from regulations set by the National Marine Fisheries Service.³ Using the regulatory power granted to them under the Magnuson-Stevens Act of 1976, they required that commercial fishermen pay a fee to have an observer on their boat. A group of commercial fishermen sued the National Marine Fisheries Service, arguing that the express powers stated in the Magnuson-Stevens Act did not grant them the power to impose this upon the fishermen. The Supreme Court, in a surprising 6-3 majority decision, agreed with the fishermen. They went even further by discrediting the Chevron deference in and of itself. Citing the Administrative Procedure Act of 1946, which contained precedent for judicial review of agency actions, they argued that courts were to handle the powers of interpreting vague laws and that deference had been acting on the false impression that such authority could be granted to these federal agencies by Congress.⁴ To add onto that, they reasoned that it could not be applied in a standardized manner and caused confusion in lower courts, further justifying its nullification. In this manner, the Chevron deference came to an abrupt and unexpected end.

The gravity of this decision in the latter case cannot be understated. As Justice Elena Kagan put it in her dissent to *Loper Bright Enterprises v. Raimondo*, “That rule has formed the backdrop against which Congress, courts, and agencies—as well as regulated parties and the public—all have operated for decades. It has been applied in thousands of judicial decisions. It has become part of the warp and woof of modern government, supporting regulatory efforts of all kinds...”⁵ highlighting the importance of the deference and the drastic nature of its end. The deference had indeed been used for thousands of cases involving federal agencies as a way to justify their decisions, and now that it has concluded, there is a gap in the handling of these cases that has been filled by the judiciary. With this comes a radical change to the way regulations are approved. On one hand, it creates more standardized and normalized interpretations of rules that were previously subject to the whims of partisan agencies and can prevent abuse of executive powers. However, this also has the effect of giving the justice system greater power over agencies, leading to a slow halt in regulation and further burdening the weary American court system. Regardless of political affiliation or point of focus, every agency under the purview of the federal government and every major judicial official has felt the weight of this change. To demonstrate this further, there are various examples of the ways in which this has affected the actions and the abilities of the government to implement and change regulations.

An area in which there has been significant change since the *Loper Bright* case is within communications and broadcasting regulation. This can be seen in the case of *Ohio Telecom Association v. FCC*, decided in 2025, where the Sixth Circuit Court of Appeals found that the Federal Communications Commission’s rules regarding net neutrality did not fall under their authority and subsequently struck them down.⁵ Net neutrality has been a longtime aim of the agency, which would force internet service providers to treat access to all websites equally, rather than blocking or putting hampers on access to certain sites while favoring others. The issues regarding this case stemmed from the FCC’s classification of broadband internet providers as a “telecommunications service” rather than an “information service”. The nature of the

3. *LOPER BRIGHT ENTERPRISES V. RAIMONDO*.

4. ADMINISTRATIVE PROCEDURE ACT [PUBLIC LAW 404—79TH CONGRESS].

5. RECOMMENDED FOR PUBLICATION PURSUANT TO SIXTH CIRCUIT I.O.P. 32.1(B).

telecommunications industry makes it easier for the FCC to regulate them as covered in Title II of the Communications Act of 1934, which gives the FCC the authority to challenge “unjust or unreasonable” practices of said telecommunications services.⁶ In a decision by Circuit Judges Griffin, Kethledge, and Bush, the FCC was criticized for its inconsistent approach to internet regulation and was prevented from treating broadband services as “telecommunications services” and treating mobile broadband specifically as a “commercial mobile service”. This has effectively ended the net neutrality debate, as it has solidified that the FCC has little to no authority over broadband service providers. Furthermore, this has a major impact on the access to internet services for the American people. Internet service providers now have no legal obstacles to stop them from hampering access to websites. This may have adverse effects, such as the monopolization of the internet by major websites and corporations, to the detriment of American consumers. There have already been past examples of these issues, one prominent one being the deliberate slowing of internet speed for consumers trying to access sites like Netflix that took place during the period from 2013 to 2014.⁷ With the official dismissal of net neutrality legislation, this behavior can and most likely will continue. In a broader scope, this clearly illustrates the changes resulting from the Chevron deference ending. There are and will be many situations where federal agencies and judges will reach a disagreement, and judges have been given broad authority to decide the limits of these agencies’ authorities. This is a consequential power shift in favor of the judicial branch, both at the highest level of the Supreme Court and with lower-level courts, as demonstrated in this case.

Another demonstration of the changes in the wake of Chevron’s end is the field of labor regulation. This was highlighted in the case of Texas v. Department of Labor in 2024, where the court invalidated the DOL’s mandated overtime pay rules for employees who worked more than 40 hours per week.⁸ These rules, defined in the Fair Labor Standards Act, originally contained exceptions for “executive, administrative, and professional” employees without any clarification on salary limits, but over time, there were regulations put on the minimum salary required for these exemptions to stand. Later, these were updated under President Biden’s administration to update this by increasing salary limits and changing the status of a significant portion of American workers to fall under the Department of Labor’s overtime regulations.⁹ To counter this, District Judge Sean Jordan of the Eastern District of Texas vacated the ruling. The court cited Loper Bright Enterprises v. Raimondo in its decision, stating that the department was exceeding its authority by increasing these limits, given that the initial Fair Labor Standards Act did not contain any instructions regarding salary limits to overtime pay exceptions for these workers. This has clear effects on American workers, specifically those within the middle class. Through denying this raise in minimum salary, many lower-level administrative and executive employees will not be eligible for overtime pay and benefits, resulting in a loss of potential earnings and protections for them. A projection from the Economic Policy Institute backs this up,

6. 47 USC CHAPTER 5, SUBCHAPTER II: COMMON CARRIERS.

7. Explaining Net Neutrality Violations: A Brief History January 24, 2018,

<https://www.congress.gov/116/meeting/house/108845/documents/HHRG-116-IF16-20190207-SD002.pdf>.

8. STATE OF TEXAS V. UNITED STATES DEPARTMENT OF LABOR ET AL, NO. 4:2024CV00499 - DOCUMENT 76 (E.D. TEX. 2024).

9. Biden-Harris administration finalizes rule to increase compensation thresholds for overtime eligibility, expanding protections for millions of workers, DOL, <https://www.dol.gov/newsroom/releases/whd/whd20240423-0>.

finding that these changes could have potentially led to 4.3 million workers, a significant portion of lower-paid white-collar workers, being lifted from exemption into overtime coverage.¹⁰ Returning to the broader lens of the issue, this is another example of the way Chevron's getting struck has affected the power of administrative agencies. The Department of Labor and other federal agencies are mostly incapacitated in their power to undertake greater changes due to their loss of interpretive ability, which the judiciary contributes to through challenging any decisions the department may attempt. Again, this reiterates the scale of the growth in judicial power due to the decision, while also showing the issue of regulatory stagnation due to said powers that the judiciary can hold over the federal government.

One more illustration of these effects is gun regulation and other areas under the scope of the Bureau of Alcohol, Tobacco, Firearms, and Explosives. A key ruling that demonstrates this is that of *Bondi v. VanDerStok*, decided in March of 2025, which affirmed the ATF's ability to regulate "ghost guns" and weapons kits.¹¹ This suit stemmed from the wording of the Gun Control Act of 1968, which lists one of the defining characteristics of a gun as "(A) any weapon (including a starter gun which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device".¹² However, due to innovations in gun production, the (B) clause of this became outdated shortly afterwards. Therefore, the ATF decided to pass the Final Rule in 2022, which updated these clauses to bring them more up to date and to tackle emerging issues regarding ghost guns and other privately made, unregulated firearms.¹³ This was challenged by the respondents, who argued that the case exceeded the authority given to the ATF in the original Gun Control Act, which only gave regulatory authority for firearms matching the previously listed definitions. The Supreme Court found that these ATF regulations were valid and did not overstretch their authority. While this did not create an actual change in the legislation, it demonstrates the change in the way courts look at these cases now that the Chevron deference is no longer used. In fact, under Chevron, such a case would have never made it to the Supreme Court because these issues would have been left up to the discretion of the ATF. Furthermore, looking at the way the court handled this case, the increased authority of the judicial branch is clear. In the decision written by Justice Neil Gorsuch, it is clearly demonstrated that the court has final say in the interpretation of the statutes within the legislation they analyze. Agencies do not have the flexibility to change laws and the way they enforce them anymore, with the court establishing more permanent decisions such as this one instead. This serves to provide a clear example of the previously mentioned effects of the Chevron deference's end, while also showing a rare example of change being possible under this new dogma.

Altogether, these cases paint a picture of how the Chevron deference coming to an end has changed the way regulatory cases occur in the United States. Agencies have fewer means regarding their own personal interpretations of regulatory power, leading to fewer modifications to legislation and a noticeable slowdown of reforms. At the same time, the judicial branch finds

11. 23-852 BONDI V. VANDERSTOK.

12. TEXT - H.R.17735 - 90TH CONGRESS (1967-1968): GUN CONTROL ACT OF 1968 | CONGRESS.GOV | LIBRARY OF CONGRESS.

13. Questions and Answers: Final Rule 2022R-17F, <https://www.atf.gov/rules-and-regulations/docs/undefined/finalrule2022r-17f-questionsandanswerspdf/download>.

itself in a very advantageous position for shaping the course of these regulations due to their widely-defined ability to challenge any action taken by said agencies. Exemplified by the various examples, this will also lead to a greater load upon the judicial system of the country, which is already rather bloated. These various examples taken together represent the new reality of American legislation shaped by the end of the deference: one with fewer changes and many more cases. Even with the recency of *Loper Bright Enterprises v. Raimondo*, the long-term effects are clearer than ever and will continue to define regulation within the government. There is no escaping the fact that the world we are living in is a world without Chevron.