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What the End of the Chevron Doctrine Means

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Regulations by government agencies may often be well-intended. A few may even be essential for maintaining safety standards, environmental quality, and reducing fraud. But the rapid growth of the administrative state interferes with our liberties and hampers our economy.

Even estimating the cost of complying with extensive regulations is no easy task. A 2023 report from the National Association of Manufacturers estimated that complying with federal regulations costs roughly $3 trillion *annually*. A 2024 report by the Competitive Enterprise Institute (CEI), *Ten Thousand Commandments*, estimates the regulatory burden to be *at least* $2.1 trillion, and likely much more.

From how food is grown and processed, to how clothes are made and buildings constructed, to minute requirements for electronics, plastics, mining, transportation, and insurance, federal regulatory agencies have a say in nearly every facet of life. The *Federal Register*, listing all federal regulations, is an enormous set of volumes that seems to grow inexorably year by year. Even periods of "deregulation" see growth in the number of rules and pages of federal regulation, just at a slower rate.

The CEI report found there were about 90,000 pages of federal regulations in the *Federal Register* in 2024. The federal government's own estimates admit compliance costs in 2022 ate up over ten billion hours—equivalent to nearly 15,000 human *lifetimes*. Other costs from high levels of federal regulation include the following:

- Slower economic growth
- Lower per capita income
- Higher prices
- Suppressed job and wage growth
- Proportionately higher compliance costs for smaller businesses

Over the past half century, the scope and reach of the administrative state were facilitated by something known as the Chevron Doctrine. This line of Supreme Court thinking gave regulatory agencies the benefit of the doubt when promulgating endless rules, with little regard to the burdens they placed on individuals and on businesses.

In its 2024 ruling *Loper Bright Enterprises v. Raimondo*, the Supreme Court overturned forty years of "Chevron deference" to administrative agencies. In *Loper*, the Supreme Court reinstated the responsibility of judges to

evaluate whether a given regulation exceeds the power of the agency that issued it. Citizens can now challenge whether certain rules and regulations are constitutional without judges automatically deferring to the relevant administrative agency.

History of Chevron Doctrine

The Chevron doctrine, established in the 1984 Supreme Court case *Chevron USA, Inc v. Natural Resources Defense Council, Inc.*, mandated judicial deference to agency interpretations of ambiguous statutes when those interpretations are "reasonable." Writing for the majority, Justice Stevens opined:

"[I]f the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."

The intention was to respect agency expertise and to promote consistent application of complex regulations. In practice, that deference severely limited courts' ability to keep agencies' rulemaking in check.

The original *Chevron* decision was decided in a 6-3 split. In the majority were Justices Stevens, Burger, Brennan, White, Blackmun, and Powell. In the dissent were Justices Marshall, Rehnquist, and O'Connor. After *Chevron*, agencies were able to exercise both executive and quasi-judicial power in enforcing *and* in interpreting their own rules, often with their own courts.

Administrative courts exist within the executive branch to resolve regulatory disputes. Most federal agencies have their own internal courts, including the:

- Securities and Exchange Commission
- Department of Health and Human Services
- Environmental Protection Agency
- National Labor Relations Board
- Social Security Administration
- Department of Justice

The administrative courts within these departments resolve immigration status, disputes over Medicare and Medicaid, violations of securities laws, environmental rules, and a variety of other issues. Unsurprisingly, these administrative courts tend to go along with their agency's expansive interpretations of Congressional statutes.

The *Loper* Decision

Exactly forty years later (June 2024), in another 6-3 decision, the Supreme Court overturned the Chevron doctrine in *Loper Bright Enterprises v. Raimondo*, with Chief Justice Roberts writing the majority opinion. The balance of power between courts and administrative agencies was restored, with courts being granted greater authority and independence to interpret statutes. The justices' alignment in this case was: Roberts, Thomas, Gorsuch, Kavanaugh, Barrett, and Alito in the majority, and Kagan, Sotomayor, and Jackson in the dissent.

The main legal question involves the meaning of "ambiguity" in Congressional statutes. Although courts could still defer to executive agencies on occasion, the court system was presumed to have "special competence" interpreting what the law requires when Congressional statutes are ambiguous.

The *Loper* decision stemmed from a challenge by herring fishermen against a National Marine Fisheries Service (NMFS) rule requiring industry-funded monitoring under the Magnuson-Stevens Act. The fishermen argued that the statute did not explicitly authorize NMFS to impose this specific regulatory burden, estimated at about $700 per day for Loper Bright Enterprises. The Supreme Court's ruling established that courts can now independently interpret ambiguous statutes, potentially limiting agencies' ability to impose regulations without clear congressional authorization. Invalidating regulatory overreach and discouraging future tenuous regulations would reduce arbitrary rules and compliance costs, starting with $700 per day, per fishing boat.

Regulatory costs (expenses businesses incur to comply with federal rules) include the following:

- Recordkeeping, monitoring, and reporting systems
- Compliance officers and staff hours to manage reporting obligations
- Audits and inspections
- Equipment and software required to monitor, log, and report regulated activities
- Salaries for lawyers, or retainers and man-hours, to interpret, navigate, or challenge regulations
- Consulting fees for environmental impact studies, tax evaluation, and other mandatory assessments
- Licensing and permit application fees, registration, and certification costs

- Changes to equipment (OSHA, emissions), product design/labeling (FDA, FTC), launch/service delays, recalls, and adjustments due to regulatory review.
- Insurance premiums for regulatory liability coverage and bonds for fines or penalties
- Opportunity costs: forgone growth, expanded overhead costs

The *Loper* ruling can reduce these costs by challenging more burdensome and intrusive regulations and allowing increased judicial scrutiny. The decision didn't make existing standards of judicial scrutiny tighter or more lenient, but increased the occasions on which judges can intervene on behalf of regulated parties. Rather than assuming Congress had delegated certain powers to the executive due to ambiguity, as was done under the Chevron Doctrine before the *Loper* decision, now courts are free to rule on whether agencies can or should act in places where the law is less than clear.

Economic Implications

While precise cost-saving estimates are hard to come by, *Loper* will lead to increased litigation that will gradually reduce regulatory burdens. Pending cases include *Corner Post, Inc. v. United States Postal Service*, which concerns time limits on challenging agency actions, and *Securities and Exchange Commission v. Jarkesy*, which addresses the SEC's authority to adjudicate cases internally. In its own administrative court, before an administrative law judge, the SEC wins approximately 90 percent of its cases, compared with only about 69 percent in federal court.

Paring back the administrative state will create large benefits for ordinary Americans. A Mercatus study highlights how "between 1949 and 2005 the accumulation of federal regulations slowed US economic growth by an average of 2 percent per year." Fewer regulations mean greater job opportunities and faster wage growth, as well as lower prices for most goods. Less red tape will encourage greater investment and innovation, which increases productivity and provides us with better goods and services. Greater economic growth also tends to bring greater solidarity and less political partisanship.

Loper may reduce costs for healthcare companies regulated by the FDA or HHS, because rules on laboratory-developed tests or drug exclusivity currently cost companies millions in compliance or litigation costs. *Loper*

challenges against the Internal Revenue Service or Department of Housing and Urban Development regulations could simplify compliance for affordable housing or renewable energy projects, encouraging those to flourish rather than be strangled by legal and administrative red tape.

And, of course, expensive and controversial environmental rules, from permitting restrictions to emissions to air quality standards, will be challenged under the new standard set by Loper. Billions of dollars in questionably effective equipment upgrades, energy offsets, and operational changes will be saved and reinvested.

Conclusion

Deregulation has been an important pillar of pro-growth economic agendas. But there are limits to how much a presidential administration can deregulate from inside the executive branch. The end of *Chevron* opened a whole new front in the fight against administrative overreach. Regulated businesses and advocacy groups can now challenge regulations that overstep Congress's initial intent, even for small issues like herring boat inspection, which may never be on the administration's radar.

The growth of the administrative state gave ever more power to the executive branch to interfere with ordinary people's lives. The CEI report highlights just how much recent administrations have used federal agencies to impose their vision or goals on the rest of society: "Biden's three years have averaged 870 rules annually in the *Federal Register* affecting small business, compared with 694 and 701 for Obama and Trump, respectively." The same report found that in 2023, "agencies issued 3,018 rules, whereas Congress enacted 68 laws. Thus, agencies issued 44 rules for every law enacted by Congress."

One can hope that *Loper* will return more power to the people, who can then hold their elected representatives accountable for the content — and the clarity — of the laws they pass.

Courts now have the opportunity to evaluate whether agency rules align with their Congressional mandates. Given that there are tens of thousands of regulations on the books, the process of reevaluating regulations will take a long time. Just a year after the Chevron doctrine was overturned, it is still unclear how much the regulatory landscape will shift. But now that courts can revisit and strike down the most abusive and costly regulations promulgated by the administrative state, the economic outlook in the US looks more favorable towards growth, productivity, and wealth creation.

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