

# Congress of the United States

## Washington, D.C. 20515

July 16, 2024

The Honorable Rostin Benham  
Chairman  
Commodities Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

Chairman Benham:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

The expansive administrative state encouraged by *Chevron* deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the Founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. We want to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities but also to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_ (2024).

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
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Please contact Patricia Straughn with the House Committee on Agriculture at (202) 225-2171 with any questions. Your prompt attention to and cooperation with this request is appreciated.

Sincerely,



Glenn "GT" Thompson  
Chairman  
House Committee on Agriculture



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 10, 2024

The Honorable Thomas J. Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington, DC 20250

Secretary Vilsack:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy, and Environment, Social, and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state encouraged by *Chevron* deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the Founders'

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Secretary Vilsack

July 9, 2024

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Please contact Patricia Straughn with the House Committee on Agriculture at (202) 225-2171 with any questions. Your prompt attention to and cooperation with this request is appreciated.

Sincerely,



Glenn "GT" Thompson  
Chairman  
House Committee on Agriculture



Virginia Foxx  
Chairwoman  
House Committee on Education and  
and the Workforce



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

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LANCE GOODEN, TEXAS

CHRIS VIESON, STAFF DIRECTOR

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U.S. House of Representatives

Washington, DC 20515-6035

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BRIAN GARRETT, MINORITY STAFF DIRECTOR

July 9, 2024

The Honorable Lloyd J. Austin III  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

Dear Secretary Austin:

I write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

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The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, I am compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the chairman of the committee of jurisdiction overseeing the Department of Defense (“Department”), I assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:

1. Please provide the following concerning Department legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and Department statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final Department rules that may be impacted by the Court's *Loper Bright* decision.
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The Honorable Lloyd J. Austin III

July 9, 2024

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Thank you for your immediate attention to this request. The Committee on Armed Services, under Rule X, clause 1 of the Rules of the House of Representatives (“House Rules”), maintains oversight jurisdiction over the Department of Defense generally. Moreover, under the House Rules, the Committee on Armed Services derives its authority to conduct oversight from, among other things, clause 2(b)(1) of Rule X (relating to general oversight responsibilities), clause 3(b) of Rule X (relating to special oversight functions), and clause 1(b) of rule XI (relating to investigations and studies).

Sincerely,



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Mike Rogers  
Chairman  
Committee on Armed Services

cc: The Honorable Adam Smith  
Ranking Member  
Committee on Armed Services

# Congress of the United States

## Washington, D.C. 20515

July 11, 2024

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Attorney General Garland:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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Attorney General Garland

July 11, 2024

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Sincerely,



Virginia Foxx  
Chairwoman  
House Committee on Education  
and the Workforce



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 11, 2024

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Secretary Becerra:

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<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

Secretary Becerra

July 11, 2024

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Secretary Becerra

July 11, 2024

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Your prompt attention to this request is appreciated.

Sincerely,



Virginia Foxx  
Chairwoman  
House Committee on Education  
and the Workforce



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 11, 2024

Ann Orr  
Acting Director  
Pension Benefit Guaranty Corporation  
445 12th Street, SW  
Washington, DC 20024

Acting Director Orr:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy, and Environment, Social, and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state encouraged by *Chevron* deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the Founders'

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Acting Director Orr  
July 11, 2024  
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Your prompt attention to this request is appreciated.

Sincerely,



Virginia Foxx  
Chairwoman  
House Committee on Education  
and the Workforce



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 10, 2024

The Honorable Julie A. Su  
Acting Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Acting Secretary Su:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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Acting Secretary Su

July 10, 2024

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House Committee on Education  
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James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 10, 2024

The Honorable Michael D. Smith  
Chief Executive Officer  
AmeriCorps  
250 E Street, SW  
Washington, DC 20525

Mr. Smith:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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Michael D. Smith

July 10, 2024

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Michael D. Smith

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House Committee on Education  
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James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 10, 2024

The Honorable Charlotte A. Burrows  
Chair  
U.S. Equal Employment Opportunity Commission  
131 M Street, NE  
Washington, DC 20507

Chair Burrows:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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July 10, 2024  
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- a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Your prompt attention to this request is appreciated.

Sincerely,



Virginia Foxx  
Chairwoman  
House Committee on Education  
and the Workforce



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 10, 2024

The Honorable Lauren M. McFerran  
Chairman  
National Labor Relations Board  
1015 Half Street, SE  
Washington, DC 20570

Acting Chairman McFerran:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy, and Environment, Social, and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state encouraged by *Chevron* deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the Founders'

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committees with legislative and oversight jurisdiction over your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities but also to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
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3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
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4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
  - b. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules related to--
    - i. novel legal or policy issues arising out of legal mandates or the President's priorities; or
    - ii. other significant regulatory issues not already identified in response to Request 4(a) above.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:

Chairman McFerran

July 10, 2024

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Sincerely,



Virginia Foxx  
Chairwoman  
House Committee on Education  
and the Workforce



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

# Congress of the United States

## Washington, D.C. 20515

July 10, 2024

The Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Secretary Cardona:

The Supreme Court recently issued a decision in *Loper Bright Enterprises v. Raimondo*, which precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the Founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy, and Environment, Social, and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state encouraged by *Chevron* deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the Founders'

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system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committees with legislative and oversight jurisdiction over your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities but also to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:

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3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
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4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
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    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
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Secretary Cardona

July 10, 2024

Page 4 of 4

- a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Your prompt attention to this request is appreciated.

Sincerely,



Virginia Foxx  
Chairwoman  
House Committee on Education  
and the Workforce



James Comer  
Chairman  
House Committee on Oversight  
and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-3641  
Minority (202) 225-2927

July 18, 2024

The Honorable Jessica Rosenworcel  
Chair  
Federal Communications Commission  
45 L St, N.E.  
Washington, D.C. 20554

Chair Rosenworcel:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations when the statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation of Americans’ lives, liberty, and property.

Perhaps no administration has gone as far as President Biden’s in issuing sweeping Executive edicts based on questionable assertions of agency authority. Though supposedly independent, the Federal Communications Commission (FCC) followed the lead of the President’s administration by promulgating rules that significantly expand the power of the FCC beyond the boundaries set by Congress. These rules impose vast costs and paperwork burdens without any basis of congressional intent.<sup>3</sup> Many of these rules—such as those

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

promulgated to impose President Biden’s broadband agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.<sup>4</sup>

The expansive *Chevron* deference has undermined our system of government, creating an unaccountable Administrative State. Thankfully, the Court has now corrected this pattern, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”<sup>5</sup> Given the Biden administration’s record of agency overreach, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction authorizing and overseeing the Commission, we assure you we will exercise our Article I legislative authority to draft clear statutes that we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:

1. Please provide the following regarding legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
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  - c. A list of all pending rulemakings in which the Commission is relying on an interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following regarding adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
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  - c. A list of all pending adjudications in which the Commission is relying on an interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following regarding enforcement actions brought by the Commission in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

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<sup>4</sup> See, e.g., *In the Matter of Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination* GN Docket No. 22-69, FCC 23-100, Report and Order and Further Notice of Proposed Rulemaking (Rel. Nov. 20, 2023); *In the Matter of Safeguarding and Securing the Open Internet Restoring Internet Freedom*, WC Docket No. 23-320, WC Docket No. 17-108, FCC 24-52, Declaratory Ruling, Report and Order, and Order on Reconsideration (Rel. May 7, 2024).

<sup>5</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

- a. A list of all pending enforcement actions in which the agency is relying on a Commission interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to a Commission interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide a list of all proposed or final agency guidance documents or other documents of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the Commission's statutory interpretation set forth in the rule for rules likely to lead to:
- a. An annual effect on the economy of \$100,000,000 or more;
  - b. A major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
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5. Please provide a list of all judicial decisions in cases to which the Commission has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the Commission's interpretation of a statute. Please identify in each listing the statutory authority the Commission interpreted and the statutory interpretation upheld.

Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-3641  
Minority (202) 225-2927

July 18, 2024

The Honorable Alexander Hoehn-Saric  
Chair  
U.S. Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

Chair Hoehn-Saric:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations when the statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation of Americans’ lives, liberty, and property.

Under your leadership, and that of previous Chairs of the Consumer Product Safety Commission [hereinafter “Commission”], the Commission has issued sweeping edicts based on questionable assertions of the Commission’s authority. The Biden administration has promulgated far more major rules, imposing vast costs and paperwork burdens, than either of its most recent predecessors.<sup>3</sup> Many of these rules—such as those promulgated to impose President Biden’s climate and consumer product safety agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

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<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

The expansive *Chevron* deference has undermined our system of government, creating an unaccountable Administrative State. Thankfully, the Court has now corrected this pattern, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration’s record of overreach, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction authorizing and overseeing your commission, we assure you we will exercise our Article I legislative authority to draft clear statutes that we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:<sup>5</sup>

1. Please provide the following regarding Commission legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and the Commission’s statutory interpretation concerned:
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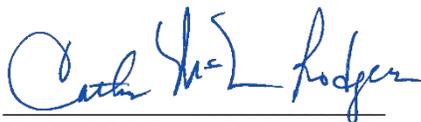
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<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

<sup>5</sup> In your responses, please include all information related to rulemakings under the Administrative Procedure Act (5 U.S.C. ch. 5, subch. I § 500 et seq.), the Danny Keysar Child Product Safety Notification Act (15 U.S.C. § 2056a et seq.) and other statutory authority utilized by the Agency that provides for an alternative rulemaking process.

- b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to the Commission's interpretation of statutory authority as a basis for its judgment against another party.
4. Please provide a list of all proposed or final Commission guidance documents or other documents of the Commission containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the Commission's statutory interpretation set forth in the rule for rules likely to lead to:
  - a. An annual effect on the economy of \$100,000,000 or more;
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Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
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ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
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COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-3641  
Minority (202) 225-2927

July 18, 2024

The Honorable Gina Raimondo  
Secretary  
Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, DC 20230

Dear Secretary Raimondo,

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations when the statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation of Americans’ lives, liberty, and property.

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The expansive *Chevron* deference has undermined our system of government, creating an unaccountable Administrative State. Thankfully, the Court has now corrected this pattern, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration’s record of agency overreach, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As a committees of jurisdiction authorizing and overseeing the Department of Commerce, we assure you we will exercise our Article I legislative authority to draft clear statutes that we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:<sup>5</sup>

1. Please provide the following regarding agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following regarding agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following regarding enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the Department statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the Department is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.

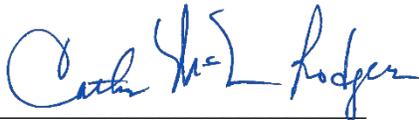
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<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

<sup>5</sup> In your responses, please include all information related to rulemakings under the Administrative Procedure Act (5 U.S.C. ch. 5, subch. I § 500 et seq.), and other statutory authority utilized by the Agency that provides for an alternative rulemaking process.

- b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide a list of all proposed or final agency guidance documents or other documents of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule for rules likely to lead to:
  - a. An annual effect on the economy of \$100,000,000 or more;
  - b. A major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
  - c. Significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide a list of all judicial decisions in cases to which the Department has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the agency's interpretation of a statute. Please identify in each listing the statutory authority the agency interpreted, and the agency statutory interpretation upheld.

Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-3641  
Minority (202) 225-2927

July 18, 2024

The Honorable Jennifer Granholm  
Secretary  
Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20024

Secretary Granholm:

We write regarding the Supreme Court’s recent decision in *Loper Bright Enterprises v. Raimondo*, which ruled that courts are now precluded from deferring to agency interpretations when statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation over Americans’ lives, liberty, and property.

Perhaps no administration has gone as far as the Biden administration in issuing sweeping Executive edicts based on questionable assertions of agency authority. The Biden administration has promulgated far more major rules, imposing vast costs and burdens, than either of its most recent predecessors.<sup>3</sup> Many of these rules—such as those promulgated to impose President Biden’s green agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.

The expansive *Chevron* deference contributed to the undermining of the balance of power envisioned by our founding fathers and enshrined in the Constitution, creating an unaccountable Administrative State, and eroding Congress’ Article I authority. The Court has now corrected this pattern, reaffirming that “[i]t is

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration’s record of agency overreach, we write to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction authorizing and overseeing your agency, we will continue to conduct oversight of your regulatory activities and assert our Article 1 legislative authorities, which we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following questions and requests for information no later than July 31, 2024:

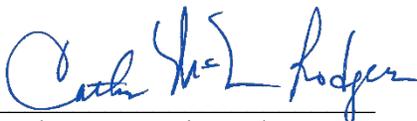
1. Please provide the following regarding agency rulemakings proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following regarding agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following regarding enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.

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<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

4. Please provide a list of all proposed or final agency guidance documents or other documents of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule for rules likely to lead to:
  - a. An annual effect on the economy of \$100,000,000 or more;
  - b. A major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
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5. Please provide a list of all judicial decisions in cases to which your agency has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the agency's interpretation of a statute. Please identify in each listing the statutory authority the agency interpreted and the agency statutory interpretation upheld.
6. Please provide a list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the agency's statutory interpretation set forth in the rule for rules related to:
  - a. Novel legal or policy issues arising out of legal mandates or the Administration's priorities; or
  - b. Other significant regulatory issues not already identified by the response to above question 4(a).

Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

### COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

Majority (202) 225-3641

Minority (202) 225-2927

July 18, 2024

The Honorable Michael Regan  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Administrator Regan:

We write regarding the Supreme Court’s recent decision in *Loper Bright Enterprises v. Raimondo*, which ruled that courts are now precluded from deferring to agency interpretations when statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation over Americans’ lives, liberty, and property.

Perhaps no administration has gone as far as the Biden administration in issuing sweeping Executive edicts based on questionable assertions of agency authority. The Biden administration has promulgated far more major rules, imposing vast costs and burdens, than either of its most recent predecessors.<sup>3</sup> Many of these rules—such as those promulgated to impose President Biden’s green agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

The expansive *Chevron* deference contributed to the undermining of the balance of power envisioned by our founding fathers and enshrined in the Constitution, creating an unaccountable Administrative State, and eroding Congress' Article I authority. The Court has now corrected this pattern, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration's record of agency overreach, we write to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction authorizing and overseeing your agency, we will continue to conduct oversight of your regulatory activities and assert our Article I legislative authorities, which we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following questions and requests for information no later than July 31, 2024:

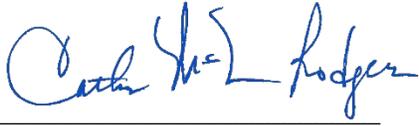
1. Please provide the following regarding agency rulemakings proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
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2. Please provide the following regarding agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
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  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court's decision in *Loper Bright*.

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<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

3. Please provide the following regarding enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court's decision in *Loper Bright*.
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4. Please provide a list of all proposed or final agency guidance documents or other documents of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule for rules likely to lead to:
  - a. An annual effect on the economy of \$100,000,000 or more;
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5. Please provide a list of all judicial decisions in cases to which your agency has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the agency's interpretation of a statute. Please identify in each listing the statutory authority the agency interpreted and the agency statutory interpretation upheld.
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  - a. Novel legal or policy issues arising out of legal mandates or the Administration's priorities; or
  - b. Other significant regulatory issues not already identified by the response to above question 4(a).

Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability



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Frank Lucas  
Chairman  
Committee on Science, Space, and Technology



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Glenn Thompson  
Chairman  
Committee on Agriculture

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-3641  
Minority (202) 225-2927

July 18, 2024

The Honorable Willie Phillips  
Chair  
Federal Energy Regulatory Commission  
888 First St, N.E.  
Washington, D.C 20426

Chair Phillips:

We write regarding the Supreme Court’s recent decision in *Loper Bright Enterprises v. Raimondo*, which ruled that courts are now precluded from deferring to agency interpretations when statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation over Americans’ lives, liberty, and property.

Perhaps no administration has gone as far as the Biden administration in issuing sweeping Executive edicts based on questionable assertions of agency authority. The Biden administration has promulgated far more major rules, imposing vast costs and burdens, than either of its most recent predecessors.<sup>3</sup> Many of these rules—such as those promulgated to impose President Biden’s green agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.

The expansive *Chevron* deference contributed to the undermining of the balance of power envisioned by our founding fathers and enshrined in the Constitution, creating an unaccountable Administrative State, and

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

eroding Congress' Article I authority. The Court has now corrected this pattern, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration's record of agency overreach, we write to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction authorizing and overseeing your agency, we will continue to conduct oversight of your regulatory activities and assert our Article 1 legislative authorities, which we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following questions and requests for information no later than July 31, 2024:

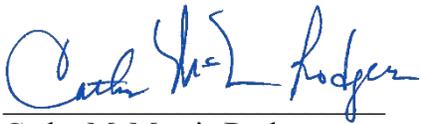
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  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
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<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

- b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
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  - b. A major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
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5. Please provide a list of all judicial decisions in cases to which your agency has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the agency's interpretation of a statute. Please identify in each listing the statutory authority the agency interpreted and the agency statutory interpretation upheld.
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  - a. Novel legal or policy issues arising out of legal mandates or the Administration's priorities; or
  - b. Other significant regulatory issues not already identified by the response to above question 4(a).

Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

### COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

Majority (202) 225-3641

Minority (202) 225-2927

July 18, 2024

The Honorable Lina M. Khan  
Chair  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Chair Khan:

We write to follow up on discussion of *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations when the statutes are ambiguous.<sup>1</sup> During the July 9<sup>th</sup> FY2025 budget hearing at the Subcommittee on Innovation, Data and Commerce of the Committee on Energy and Commerce, you stated the following in response to questioning:

"A core pillar of my approach to the FTC is making sure that we are being faithful to the text of the laws that Congress has written and making sure that we are honoring all of the provisions and not, you know, as unelected bureaucrats, by de facto nullifying authorities or tools that Congress has given us."

To remind you, in its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the "Administrative State" to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation of Americans' lives, liberty, and property.

Perhaps no administration has gone as far as President Biden's in issuing sweeping Executive edicts based on questionable assertions of agency authority. The Biden administration has promulgated far more major

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Id.*

rules, imposing vast costs and paperwork burdens, than either of its most recent predecessors.<sup>3</sup> It is troubling that as the head of an independent agency, you have blindly followed President Biden in this pursuit. Many of these rules—such as those promulgated to impose President Biden’s labor, economic, competition, and consumer protection agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.

The expansive *Chevron* deference has undermined our system of government, creating an unaccountable Administrative State. Thankfully, the Court has now corrected this pattern, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration’s record of agency overreach, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As Committees of jurisdiction authorizing and overseeing the Federal Trade Commission [hereinafter “Commission”], we assure you we will exercise our Article I legislative authority to draft clear statutes that we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:<sup>5</sup>

1. Please provide the following regarding Commission legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and Commission statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final Commission rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final Commission rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending Commission rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following regarding Commission adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final Commission adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final Commission adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.

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<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

<sup>5</sup> In your responses, please include all information related to rulemakings under the Administrative Procedure Act (5 U.S.C. ch. 5, subch. I § 500 et seq.), the Magnuson-Moss Act (15 U.S.C. § 2301 et seq.), and other statutory authority utilized by the Agency that provides for an alternative rulemaking process.

- c. A list of all pending Commission adjudications in which the agency is relying on an interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court's decision in *Loper Bright*.
3. Please provide the following regarding enforcement actions brought by the Commission in court since January 20, 2021, identifying in each relevant listing the Commission statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the Commission is relying on a Commission interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to a Commission interpretation of statutory authority as a basis for its judgment against another party.
4. Please provide a list of all proposed or final Commission guidance documents or other documents of the Commission containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the Commission statutory interpretation set forth in the rule for rules likely to lead to:
  - a. An annual effect on the economy of \$100,000,000 or more;
  - b. A major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
  - c. Significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide a list of all judicial decisions in cases to which your agency has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the Commission's interpretation of a statute. Please identify in each listing the statutory authority the Commission interpreted and the statutory interpretation upheld.

Sincerely,



Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



James Comer  
Chairman  
Committee on Oversight and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-3641  
Minority (202) 225-2927

July 18, 2024

Sophie Shulman  
Deputy Administrator  
National Highway Traffic Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, D.C 20590

Deputy Administrator Shulman:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations when the statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation of Americans’ lives, liberty, and property.

Perhaps no administration has gone as far as President Biden’s in issuing sweeping Executive edicts based on questionable assertions of agency authority. The Biden administration has promulgated far more major rules, imposing vast costs and paperwork burdens, than either its most recent predecessors.<sup>3</sup> Many of these rules—such as those promulgated to impose President Biden’s radical green agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.

The expansive *Chevron* deference has undermined our system of government, creating an unaccountable Administrative State. Thankfully, the Court has now corrected this pattern, reaffirming that “[i]t is

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration’s record of agency overreach, [we are/I am] compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction authorizing and overseeing the National Highway Traffic Safety Administration [hereinafter “agency”], we assure you we will exercise our Article I legislative authority to draft clear statutes that we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:

1. Please provide the following regarding legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following regarding agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following regarding enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.

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<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

4. Please provide a list of all proposed or final agency guidance documents or other documents of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule for rules likely to lead to:
- a. An annual effect on the economy of \$100,000,000 or more;
  - b. A major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
  - c. Significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide a list of all judicial decisions in cases to which your agency has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the agency's interpretation of a statute. Please identify in each listing the statutory authority the agency interpreted and the agency statutory interpretation upheld.

Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability

CATHY McMORRIS RODGERS, WASHINGTON  
CHAIR

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ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
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COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-3641  
Minority (202) 225-2927

July 18, 2024

The Honorable Christopher Hanson  
Chair  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Chair Hanson:

We write regarding the Supreme Court’s recent decision in *Loper Bright Enterprises v. Raimondo*, which ruled that courts are now precluded from deferring to agency interpretations when statutes are ambiguous.<sup>1</sup> In its decision, the Court explicitly overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had required deference to agency interpretations of ambiguous statutes.<sup>2</sup> By allowing such deference, the Court in *Chevron* enabled the “Administrative State” to usurp the legislative authority that the Constitution grants exclusively to Congress in Article I. The *Chevron* decision led to broader, more costly and more invasive agency regulation over Americans’ lives, liberty, and property.

Perhaps no administration has gone as far as the Biden administration in issuing sweeping Executive edicts based on questionable assertions of agency authority. The Biden administration has promulgated far more major rules, imposing vast costs and burdens, than either of its most recent predecessors.<sup>3</sup> Many of these rules—such as those promulgated to impose President Biden’s green agenda—have been based on overreaching interpretations of statutes enacted by Congress years ago, before the issues now regulated were even imagined.

The expansive *Chevron* deference contributed to the undermining of the balance of power envisioned by our founding fathers and enshrined in the Constitution, creating an unaccountable Administrative State, and eroding Congress’ Article I authority. The Court has now corrected this pattern, reaffirming that “[i]t is

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

emphatically the province and duty of the judicial department to say what the law is.”<sup>4</sup> Given the Biden administration’s record of agency overreach, we write to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction authorizing and overseeing your agency, we will continue to conduct oversight of your regulatory activities and assert our Article 1 legislative authorities, which we expect you to follow. Pursuant to Rules X and XI of the U.S. House of Representatives, the Committees will ensure that the Biden administration respects the limits placed on its regulatory authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following questions and requests for information no later than July 31, 2024:

1. Please provide the following regarding agency rulemakings proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following regarding agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following regarding enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have depended upon *Chevron* deference prior to the Court’s decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.

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<sup>4</sup> 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

4. Please provide a list of all proposed or final agency guidance documents or other documents of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule for rules likely to lead to:
  - a. An annual effect on the economy of \$100,000,000 or more;
  - b. A major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
  - c. Significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide a list of all judicial decisions in cases to which your agency has been a party that were not ultimately overturned by a higher court in which the court relied upon *Chevron* to yield to the agency's interpretation of a statute. Please identify in each listing the statutory authority the agency interpreted and the agency statutory interpretation upheld.
6. Please provide a list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules issued since January 20, 2021, identifying in each the statutory authority the rule interprets and the agency's statutory interpretation set forth in the rule for rules related to:
  - a. Novel legal or policy issues arising out of legal mandates or the Administration's priorities; or
  - b. Other significant regulatory issues not already identified by the response to above question 4(a).

Sincerely,



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Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce



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James Comer  
Chairman  
Committee on Oversight and Accountability

Congress of the United States  
Washington, DC 20515

July 16, 2024

Ms. Adrienne Todman  
Acting Secretary  
U.S. Department of Housing and Urban Development  
451 Seventh Street SW  
Washington, D.C. 20410

Dear Acting Secretary Todman:

We write to call your attention to *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

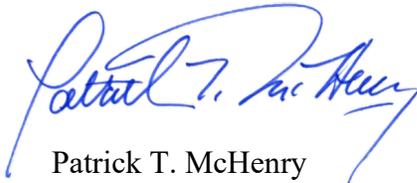
As the committees of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than August 13, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

- a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Thank you for your attention to this matter. We look forward to receiving your response.

Sincerely,



Patrick T. McHenry  
Chairman  
House Financial Services Committee



James Comer  
Chairman  
House Oversight Committee

Congress of the United States  
Washington, DC 20515

July 16, 2024

The Honorable Sandra Thompson  
Director  
Federal Housing Finance Agency  
400 7th Street, SW  
Washington, DC 20219

Dear Director Thompson:

We write to call your attention to *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

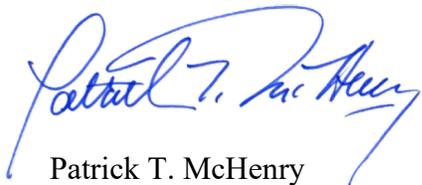
As the committees of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than August 16, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
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  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

- a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
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- a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
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- a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Thank you for your attention to this matter. We look forward to receiving your response.

Sincerely,



Patrick T. McHenry  
Chairman  
House Financial Services Committee



James Comer  
Chairman  
House Oversight Committee

Congress of the United States  
Washington, DC 20515

July 10, 2024

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Dear Director Chopra,

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders'

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

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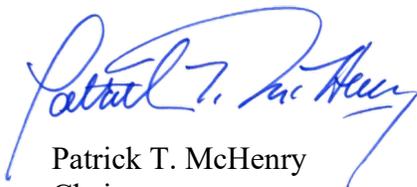
As the committees of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than August 7, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
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Thank you for your attention to this matter. We look forward to receiving your response.

Sincerely,



Patrick T. McHenry  
Chairman  
House Financial Services Committee



James Comer  
Chairman  
House Oversight Committee

Congress of the United States  
Washington, DC 20515

July 10, 2024

The Honorable Martin J. Gruenberg  
Chairman  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW  
Washington, DC 20429

Dear Chairman Gruenberg,

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its

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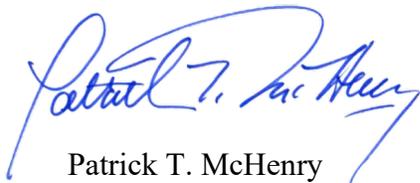
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Sincerely,



Patrick T. McHenry  
Chairman  
House Financial Services Committee



James Comer  
Chairman  
House Oversight Committee

Congress of the United States  
Washington, DC 20515

July 10, 2024

The Honorable Jerome H. Powell  
Chair  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Ave NW  
Washington, DC 20551

Dear Chair Powell,

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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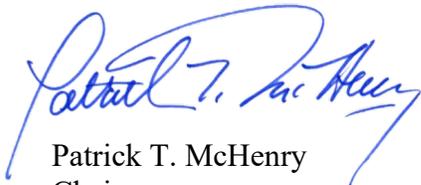
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Chairman  
House Financial Services Committee



James Comer  
Chairman  
House Oversight Committee

Congress of the United States  
Washington, DC 20515

July 10, 2024

The Honorable Todd M. Harper  
Chairman  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

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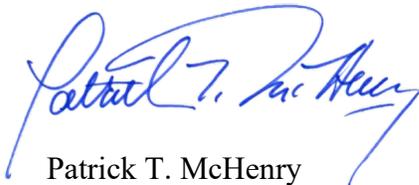
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Congress of the United States  
Washington, DC 20515

July 10, 2024

Mr. Michael Hsu  
Acting Director  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> Street SW  
Washington, DC 20219

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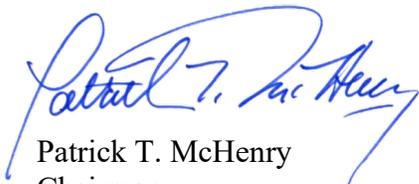
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Congress of the United States  
Washington, DC 20515

July 10, 2024

The Honorable Gary Gensler  
Chair  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

Dear Chair Gensler,

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

*Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

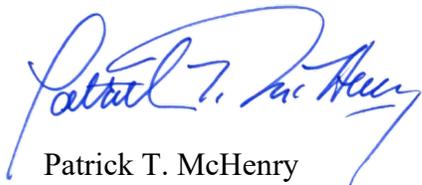
As the committees of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than August 7, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

- a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
- a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
- a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Thank you for your attention to this matter. We look forward to receiving your response.

Sincerely,



Patrick T. McHenry  
Chairman  
House Financial Services Committee



James Comer  
Chairman  
House Oversight Committee

Congress of the United States  
Washington, DC 20515

July 10, 2024

The Honorable Janet Yellen  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

Dear Secretary Yellen,

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

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<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

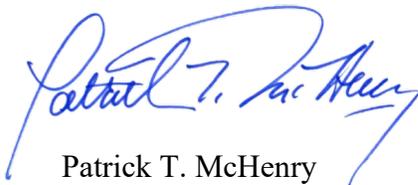
As the committees of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than August 7, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

- a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
- a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
- a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Thank you for your attention to this matter. We look forward to receiving your response.

Sincerely,



Patrick T. McHenry  
Chairman  
House Financial Services Committee



James Comer  
Chairman  
House Oversight Committee

**Congress of the United States**  
**Washington, DC 20515**

July 9, 2024

The Honorable Antony Blinken  
Secretary of State  
United States Department of State  
2201 C Street N.W.  
Washington, DC 20520

Dear Mr. Secretary:

We are writing to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had required courts to defer to agency interpretations of ambiguous statutes. By requiring such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution, and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly, and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding that courts defer to them.

President Biden and this administration have premised sweeping and intrusive agency dictates on such questionable assertions of agency authority, promulgating far more major rules, and imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress many years ago, long before such agendas were even imagined.

The expansive administrative state encouraged by *Chevron* deference has deformed our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should help stem the tide of federal agency overreach. Given

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

this administration's track record, however, we want to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As Chairmen of committees of oversight jurisdiction for your agency, we intend to exercise our investigative and legislative powers not only to reassert our Article I responsibilities, but also to ensure that the administration respects the limits placed on its authority by the Court's *Loper Bright* decision. To assist in this effort, we ask that you provide the following no later than July 31, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
3. Please provide the following concerning any enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.

- b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets, and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation that was upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

We appreciate your prompt attention to these important matters and look forward to your response.

Sincerely,



MICHAEL T. McCAUL  
Chairman  
Committee on Foreign Affairs



JAMES COMER  
Chairman  
Committee on Oversight and Accountability

**Congress of the United States**  
**Washington, DC 20515**

July 10, 2024

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Secretary Mayorkas:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”<sup>3</sup> This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, we are

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

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<sup>3</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. at \_\_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)).

compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committees of jurisdiction overseeing the Department of Homeland Security (Department) and its component agencies, we assure you that we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please provide the following documents and information as soon as possible, but no later than 5:00 p.m. on July 24, 2024:

1. The following lists concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision;
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged; and
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
2. The following lists concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision;
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged; and
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
3. The following lists concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*, and

- b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. The following list and documents concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. A list of all judicial decisions in cases to which the Department and its component agencies have been a party since the Supreme Court issued its *Chevron* decision in 1984, not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute, to include in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld.

Please contact the Committee on Homeland Security Majority staff at (202) 226-8417 and Committee on Oversight and Accountability Majority staff at (202) 225-5074 with any questions about this request. Attached are instructions for producing documents and information to the Committees.

Per Rule X of the U.S House of Representatives, the Committee on Homeland Security is the principal committee of jurisdiction for overall homeland security policy, and has special oversight functions of “all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security.” The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

Secretary Mayorkas  
July 10, 2024  
Page 4

Thank you for your prompt attention to this important matter.

Sincerely,



MARK E. GREEN, M.D.  
Chairman  
Committee on Homeland Security



JAMES COMER  
Chairman  
Committee on Oversight and  
Accountability

Encl.

cc: The Honorable Bennie Thompson, Ranking Member  
Committee on Homeland Security

The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

July 10, 2024

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
3017 7th St. S.W.  
Washington, DC 20528

Dear Secretary Mayorkas:

On June 28, 2024, the Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo*,<sup>1</sup> which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*<sup>2</sup> In overruling *Chevron*, the Court remedied a decades-long error that handed vague and broad powers to unelected and unaccountable bureaucrats in the Executive Branch.<sup>3</sup> Given that *Loper Bright* will have wide-ranging implications for agency rulemaking endeavors, we write to request documents and information regarding the plan of your department and its component entities to stop relying on *Chevron* deference and to follow Congress's intent when promulgating rules.

The Biden Administration has abused the massive administrative state to significantly increase the regulatory burden felt by all Americans. Much of this overreach has been achieved through administrative rulemaking by unelected and unaccountable bureaucrats.<sup>4</sup> In overruling *Chevron*, the Supreme Court correctly reasserted the balance of power laid out in the Constitution: the legislative branch makes the laws, the judicial branch interpret the laws, and the executive branch enforces the laws.<sup>5</sup> Going forward, the administrative state will no longer have the ability to enact rules with the force of law based on over-broad interpretations of statutes.

The Committee has conducted vigorous oversight of the administrative state to inform legislative reforms, including passage of the Separation of Powers Restoration Act of 2023 (SOPRA).<sup>6</sup> As such, and in light of the Court's *Loper Bright* decision, the Committee must

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

<sup>3</sup> See Richard A. Epstein, *Administrative Overreach, Enabled By Courts*, HOOVER INSTITUTION (Oct. 2, 2018).

<sup>4</sup> Casey Mulligan, *Burden is Back: Comparing Regulatory Costs Between Biden, Trump, and Obama*, COMMITTEE TO UNLEASH PROSPERITY (2023).

<sup>5</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>6</sup> The Separation of Powers Restoration Act of 2023, H.R. 288, 118<sup>th</sup> Cong. (2023).

conduct oversight to ensure that the administrative state is fully adhering to the holding in *Loper Bright*. To further inform the Committee's oversight and legislative efforts, please produce the following documents and information for your department and all component entities:

1. All documents and communications referring or relating to all pending and final agency rules, enacted since January 20, 2021, that may be affected by the Court's *Loper Bright* decision or rely on the Court's *Chevron* decision, including:
  - a. A list of all pending and final agency rules since January 20, 2021;
  - b. A list of the statutory authorities upon which the agency relies to promulgate such rules;
  - c. All legal memoranda analyzing the pending rule, final rule, or ambiguous statute; and
  - d. All guidance documents analyzing the agency's statutory authority to promulgate the rule.
  
2. All documents and communications referring or relating to judicial challenges to final agency rules enacted since January 20, 2021, where the outcome may be affected by the Court's *Loper Bright* decision or where the agency relies on the Court's *Chevron* decision, including:
  - a. A list of all judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision;
  - b. A list of all final agency rules that, if challenged in the future, may be impacted by the Court's *Loper Bright* decision;
  - c. A list of all pending agency rule in which the agency relies, in part or in whole, on an interpretation of the authorizing statute that would have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*; and
  - d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for promulgating the rule.
  
3. All documents and communications referring or relating to enforcement actions brought by the agency since January 20, 2021, where the outcome may be, or may have been, affected by the Court's *Loper Bright* decision or may, or has, relied on the Court's *Chevron* decision, including:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*;
  - b. A list of all concluded enforcement actions in which the Court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party;
  - c. The statutory authority upon which the agency relies to bring the enforcement action; and

- d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for bring the enforcement action.
4. All documents and communications referring or relating to the agency's plan to cease the reliance on the Court's *Chevron* decision to promulgate rules or bring enforcement actions, including:
    - a. A list of all statutory authorities which authorize the agency to promulgate rules;
    - b. A list of all statutory authorities which authorize the agency to bring enforcement actions;
    - c. All legal analysis supporting the agency's use of rulemaking or enforcement authority without relying on the Court's *Chevron* decision; and
    - d. All guidance documents related to the agency's approach to rulemaking and enforcement actions following the Court's *Loper Bright* decision.

Please produce all documents and information as soon as possible but no later than 5:00 p.m. on July 24, 2024. The Committee on the Judiciary is authorized to conduct oversight of and legislate on matters relating to “[a]dministrative process and procedure.”<sup>7</sup> If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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<sup>7</sup> Rules of the U.S. House of Representatives, R. X (2023).

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

July 10, 2024

The Honorable Merrick B. Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Attorney General Garland:

On June 28, 2024, the Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo*,<sup>1</sup> which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*<sup>2</sup> In overruling *Chevron*, the Court remedied a decades-long error that handed vague and broad powers to unelected and unaccountable bureaucrats in the Executive Branch.<sup>3</sup> Given that *Loper Bright* will have wide-ranging implications for agency rulemaking endeavors, we write to request documents and information regarding the plan of your department and its component entities to stop relying on *Chevron* deference and to follow Congress's intent when promulgating rules.

The Biden Administration has abused the massive administrative state to significantly increase the regulatory burden felt by all Americans. Much of this overreach has been achieved through administrative rulemaking by unelected and unaccountable bureaucrats.<sup>4</sup> In overruling *Chevron*, the Supreme Court correctly reasserted the balance of power laid out in the Constitution: the legislative branch makes the laws, the judicial branch interpret the laws, and the executive branch enforces the laws.<sup>5</sup> Going forward, the administrative state will no longer have the ability to enact rules with the force of law based on over-broad interpretations of statutes.

The Committee has conducted vigorous oversight of the administrative state to inform legislative reforms, including passage of the Separation of Powers Restoration Act of 2023 (SOPRA).<sup>6</sup> As such, and in light of the Court's *Loper Bright* decision, the Committee must

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

<sup>3</sup> See Richard A. Epstein, *Administrative Overreach, Enabled By Courts*, HOOVER INSTITUTION (Oct. 2, 2018).

<sup>4</sup> Casey Mulligan, *Burden is Back: Comparing Regulatory Costs Between Biden, Trump, and Obama*, COMMITTEE TO UNLEASH PROSPERITY (2023).

<sup>5</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>6</sup> The Separation of Powers Restoration Act of 2023, H.R. 288, 118<sup>th</sup> Cong. (2023).

conduct oversight to ensure that the administrative state is fully adhering to the holding in *Loper Bright*. To further inform the Committee's oversight and legislative efforts, please produce the following documents and information for your department and all component entities:

1. All documents and communications referring or relating to all pending and final agency rules, enacted since January 20, 2021, that may be affected by the Court's *Loper Bright* decision or rely on the Court's *Chevron* decision, including:
  - a. A list of all pending and final agency rules since January 20, 2021;
  - b. A list of the statutory authorities upon which the agency relies to promulgate such rules;
  - c. All legal memoranda analyzing the pending rule, final rule, or ambiguous statute; and
  - d. All guidance documents analyzing the agency's statutory authority to promulgate the rule.
  
2. All documents and communications referring or relating to judicial challenges to final agency rules enacted since January 20, 2021, where the outcome may be affected by the Court's *Loper Bright* decision or where the agency relies on the Court's *Chevron* decision, including:
  - a. A list of all judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision;
  - b. A list of all final agency rules that, if challenged in the future, may be impacted by the Court's *Loper Bright* decision;
  - c. A list of all pending agency rule in which the agency relies, in part or in whole, on an interpretation of the authorizing statute that would have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*; and
  - d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for promulgating the rule.
  
3. All documents and communications referring or relating to enforcement actions brought by the agency since January 20, 2021, where the outcome may be, or may have been, affected by the Court's *Loper Bright* decision or may, or has, relied on the Court's *Chevron* decision, including:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*;
  - b. A list of all concluded enforcement actions in which the Court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party;
  - c. The statutory authority upon which the agency relies to bring the enforcement action; and

The Honorable Merrick B. Garland

July 10, 2024

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- d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for bring the enforcement action.
4. All documents and communications referring or relating to the agency's plan to cease the reliance on the Court's *Chevron* decision to promulgate rules or bring enforcement actions, including:
    - a. A list of all statutory authorities which authorize the agency to promulgate rules;
    - b. A list of all statutory authorities which authorize the agency to bring enforcement actions;
    - c. All legal analysis supporting the agency's use of rulemaking or enforcement authority without relying on the Court's *Chevron* decision; and
    - d. All guidance documents related to the agency's approach to rulemaking and enforcement actions following the Court's *Loper Bright* decision.

Please produce all documents and information as soon as possible but no later than 5:00 p.m. on July 24, 2024. The Committee on the Judiciary is authorized to conduct oversight of and legislate on matters relating to "[a]dministrative process and procedure."<sup>7</sup> If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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<sup>7</sup> Rules of the U.S. House of Representatives, R. X (2023).

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906

judiciary.house.gov

July 10, 2024

The Honorable Lina Khan  
Chair  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Dear Chair Khan:

On June 28, 2024, the Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo*,<sup>1</sup> which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*<sup>2</sup> In overruling *Chevron*, the Court remedied a decades-long error that handed vague and broad powers to unelected and unaccountable bureaucrats in the Executive Branch.<sup>3</sup> Given that *Loper Bright* will have wide-ranging implications for agency rulemaking endeavors, we write to request documents and information regarding your agency's plan to stop relying on *Chevron* deference and to follow Congress's intent when promulgating rules.

The Biden Administration has abused the massive administrative state to significantly increase the regulatory burden felt by all Americans. Much of this overreach has been achieved through administrative rulemaking by unelected and unaccountable bureaucrats.<sup>4</sup> In overruling *Chevron*, the Supreme Court correctly reasserted the balance of power laid out in the Constitution: the legislative branch makes the laws, the judicial branch interpret the laws, and the executive branch enforces the laws.<sup>5</sup> Going forward, the administrative state will no longer have the ability to enact rules with the force of law based on over-broad interpretations of statutes.

The Committee has conducted vigorous oversight of the administrative state to inform legislative reforms, including passage of the Separation of Powers Restoration Act of 2023 (SOPRA).<sup>6</sup> As such, and in light of the Court's *Loper Bright* decision, the Committee must

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

<sup>3</sup> See Richard A. Epstein, *Administrative Overreach, Enabled By Courts*, HOOVER INSTITUTION (Oct. 2, 2018).

<sup>4</sup> Casey Mulligan, *Burden is Back: Comparing Regulatory Costs Between Biden, Trump, and Obama*, COMMITTEE TO UNLEASH PROSPERITY (2023).

<sup>5</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>6</sup> The Separation of Powers Restoration Act of 2023, H.R. 288, 118<sup>th</sup> Cong. (2023).

conduct oversight to ensure that the administrative state is fully adhering to the holding in *Loper Bright*. To further inform the Committee's oversight and legislative efforts, please produce the following documents and information:

1. All documents and communications referring or relating to all pending and final agency rules, enacted since January 20, 2021, that may be affected by the Court's *Loper Bright* decision or rely on the Court's *Chevron* decision, including:
  - a. A list of all pending and final agency rules since January 20, 2021;
  - b. A list of the statutory authorities upon which the agency relies to promulgate such rules;
  - c. All legal memoranda analyzing the pending rule, final rule, or ambiguous statute; and
  - d. All guidance documents analyzing the agency's statutory authority to promulgate the rule.
  
2. All documents and communications referring or relating to judicial challenges to final agency rules enacted since January 20, 2021, where the outcome may be affected by the Court's *Loper Bright* decision or where the agency relies on the Court's *Chevron* decision, including:
  - a. A list of all judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision;
  - b. A list of all final agency rules that, if challenged in the future, may be impacted by the Court's *Loper Bright* decision;
  - c. A list of all pending agency rule in which the agency relies, in part or in whole, on an interpretation of the authorizing statute that would have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*; and
  - d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for promulgating the rule.
  
3. All documents and communications referring or relating to enforcement actions brought by the agency since January 20, 2021, where the outcome may be, or may have been, affected by the Court's *Loper Bright* decision or may, or has, relied on the Court's *Chevron* decision, including:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*;
  - b. A list of all concluded enforcement actions in which the Court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party;
  - c. The statutory authority upon which the agency relies to bring the enforcement action; and

The Honorable Lina Khan

July 10, 2024

Page 3

- d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for bring the enforcement action.
4. All documents and communications referring or relating to the agency's plan to cease the reliance on the Court's *Chevron* decision to promulgate rules or bring enforcement actions, including:
    - a. A list of all statutory authorities which authorize the agency to promulgate rules;
    - b. A list of all statutory authorities which authorize the agency to bring enforcement actions;
    - c. All legal analysis supporting the agency's use of rulemaking or enforcement authority without relying on the Court's *Chevron* decision; and
    - d. All guidance documents related to the agency's approach to rulemaking and enforcement actions following the Court's *Loper Bright* decision.

Please produce all documents and information as soon as possible but no later than 5:00 p.m. on July 24, 2024. The Committee on the Judiciary is authorized to conduct oversight of and legislate on matters relating to "[a]dministrative process and procedure."<sup>7</sup> If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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<sup>7</sup> Rules of the U.S. House of Representatives, R. X (2023).

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

July 10, 2024

The Honorable Kathi Vidal  
Undersecretary of Commerce for Intellectual Property and  
Director of the U.S. Patent and Trademark Office  
600 Dulany Street  
Alexandria, VA 22314

Dear Director Vidal:

On June 28, 2024, the Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo*,<sup>1</sup> which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*<sup>2</sup> In overruling *Chevron*, the Court remedied a decades-long error that handed vague and broad powers to unelected and unaccountable bureaucrats in the Executive Branch.<sup>3</sup> Given that *Loper Bright* will have wide-ranging implications for agency rulemaking endeavors, we write to request documents and information regarding your agency's plan to stop relying on *Chevron* deference and to follow Congress's intent when promulgating rules.

The Biden Administration has abused the massive administrative state to significantly increase the regulatory burden felt by all Americans. Much of this overreach has been achieved through administrative rulemaking by unelected and unaccountable bureaucrats.<sup>4</sup> In overruling *Chevron*, the Supreme Court correctly reasserted the balance of power laid out in the Constitution: the legislative branch makes the laws, the judicial branch interpret the laws, and the executive branch enforces the laws.<sup>5</sup> Going forward, the administrative state will no longer have the ability to enact rules with the force of law based on over-broad interpretations of statutes.

The Committee has conducted vigorous oversight of the administrative state to inform legislative reforms, including passage of the Separation of Powers Restoration Act of 2023 (SOPRA).<sup>6</sup> As such, and in light of the Court's *Loper Bright* decision, the Committee must

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

<sup>3</sup> See Richard A. Epstein, *Administrative Overreach, Enabled By Courts*, HOOVER INSTITUTION (Oct. 2, 2018).

<sup>4</sup> Casey Mulligan, *Burden is Back: Comparing Regulatory Costs Between Biden, Trump, and Obama*, COMMITTEE TO UNLEASH PROSPERITY (2023).

<sup>5</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>6</sup> The Separation of Powers Restoration Act of 2023, H.R. 288, 118<sup>th</sup> Cong. (2023).

conduct oversight to ensure that the administrative state is fully adhering to the holding in *Loper Bright*. To further inform the Committee's oversight and legislative efforts, please produce the following documents and information:

1. All documents and communications referring or relating to all pending and final agency rules, enacted since January 20, 2021, that may be affected by the Court's *Loper Bright* decision or rely on the Court's *Chevron* decision, including:
  - a. A list of all pending and final agency rules since January 20, 2021;
  - b. A list of the statutory authorities upon which the agency relies to promulgate such rules;
  - c. All legal memoranda analyzing the pending rule, final rule, or ambiguous statute; and
  - d. All guidance documents analyzing the agency's statutory authority to promulgate the rule.
  
2. All documents and communications referring or relating to judicial challenges to final agency rules enacted since January 20, 2021, where the outcome may be affected by the Court's *Loper Bright* decision or where the agency relies on the Court's *Chevron* decision, including:
  - a. A list of all judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision;
  - b. A list of all final agency rules that, if challenged in the future, may be impacted by the Court's *Loper Bright* decision;
  - c. A list of all pending agency rule in which the agency relies, in part or in whole, on an interpretation of the authorizing statute that would have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*; and
  - d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for promulgating the rule.
  
3. All documents and communications referring or relating to enforcement actions brought by the agency since January 20, 2021, where the outcome may be, or may have been, affected by the Court's *Loper Bright* decision or may, or has, relied on the Court's *Chevron* decision, including:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*;
  - b. A list of all concluded enforcement actions in which the Court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party;
  - c. The statutory authority upon which the agency relies to bring the enforcement action; and

- d. All legal analysis supporting the agency's interpretation of the statute upon which it relies for bring the enforcement action.
4. All documents and communications referring or relating to the agency's plan to cease the reliance on the Court's *Chevron* decision to promulgate rules or bring enforcement actions, including:
    - a. A list of all statutory authorities which authorize the agency to promulgate rules;
    - b. A list of all statutory authorities which authorize the agency to bring enforcement actions;
    - c. All legal analysis supporting the agency's use of rulemaking or enforcement authority without relying on the Court's *Chevron* decision; and
    - d. All guidance documents related to the agency's approach to rulemaking and enforcement actions following the Court's *Loper Bright* decision.

Please produce all documents and information as soon as possible but no later than 5:00 p.m. on July 24, 2024. The Committee on the Judiciary is authorized to conduct oversight of and legislate on matters relating to "[a]dministrative process and procedure."<sup>7</sup> If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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<sup>7</sup> Rules of the U.S. House of Representatives, R. X (2023).

# Congress of the United States

Washington, DC 20515

July 9, 2024

The Honorable Brenda Mallory  
Chair  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, D.C. 20006

Chair Mallory:

The House Committee on Natural Resources and House Committee on Oversight and Accountability (Committees) write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, the Committees are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing the Council on Environmental Quality (CEQ) and the committee of principal oversight jurisdiction under House Rule X, we assure you the Committees will exercise their robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.

3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

As you are aware, the Supreme Court has long recognized that Congressional oversight power is broad and far-reaching. *Barenblatt v. United States*, 360 U.S. 109 (1959). The Supreme Court has also established that Congress has a duty “to look diligently into every affair of government” and “use every means of acquainting itself with the acts and the disposition of the administrative agents of the government.” *Doe v. McMillan*, 412 U.S. 306 (1973). Hence, a “legislative inquiry may be as broad, as searching, and as exhaustive as is necessary.” *Townsend v. United States*, 95 F.2d 352, 361 (D.C. Cir. 1938). Moreover, under House Rule X, the Committee

on Natural Resources has “general oversight” of any matter relating to its jurisdiction, including all matters concerning the programs and operations of CEQ. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, “any matter” at “any time” under House Rule X.

An attachment to this letter provides additional instructions for responding to the requests from the Committees. Please contact the Majority staff for the Oversight and Investigations Subcommittee on Natural Resources at (202) 225-2761 or [HNRR.Oversight@mail.house.gov](mailto:HNRR.Oversight@mail.house.gov) with any questions. We look forward to your cooperation.

Sincerely,



Bruce Westerman  
Chairman  
Committee on Natural Resources



James Comer  
Chairman  
Committee on Oversight and Accountability

# Congress of the United States

Washington, DC 20515

July 9, 2024

The Honorable Gina M. Raimondo  
Secretary  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, D.C. 20230

The Honorable Richard W. Spinrad, Ph.D.  
Administrator  
National Oceanic and Atmospheric Administration  
1401 Constitution Ave NW  
Washington, D.C. 20230

Secretary Raimondo and Administrator Spinrad:

The House Committee on Natural Resources (Committee) writes to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

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As the committee of jurisdiction overseeing the National Oceanic and Atmospheric Administration (NOAA), we assure you the Committee will exercise its robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
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4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
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    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
  
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

As you are aware, the Supreme Court has long recognized that Congressional oversight power is broad and far-reaching. *Barenblatt v. United States*, 360 U.S. 109 (1959). The Supreme Court has also established that Congress has a duty "to look diligently into every affair of government" and "use every means of acquainting itself with the acts and the disposition of the administrative agents of the government." *Doe v. McMillan*, 412 U.S. 306 (1973). Hence, a "legislative inquiry may be as broad, as searching, and as exhaustive as is necessary." *Townsend v. United States*, 95 F.2d 352, 361 (D.C. Cir. 1938). Moreover, under House Rule X, the Committee

on Natural Resources has “general oversight” of any matter relating to its jurisdiction, including all matters concerning the programs and operations of NOAA.

An attachment to this letter provides additional instructions for responding to the requests from the Committee on Natural Resources. Please contact the Majority staff for the Oversight and Investigations Subcommittee at (202) 225-2761 or [HNRR.Oversight@mail.house.gov](mailto:HNRR.Oversight@mail.house.gov) with any questions. We look forward to your cooperation.

Sincerely,



Bruce Westerman  
Chairman  
Committee on Natural Resources



James Comer  
Chairman  
Committee on Oversight and Accountability

# Congress of the United States

Washington, DC 20515

July 9, 2024

The Honorable Jennifer M. Granholm  
Secretary  
U.S. Department of Energy  
1000 Independence Ave SW  
Washington, D.C. 20585

Secretary Granholm:

The House Committee on Natural Resources and House Committee on Oversight and Accountability (Committees) write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and

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Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, the Committees are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing the Department of Energy (DOE) and the committee of principal oversight jurisdiction under House Rule X, we assure you the Committees will exercise their robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

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An attachment to this letter provides additional instructions for responding to the requests from the Committees. Please contact the Majority staff for the Oversight and Investigations Subcommittee, Committee on Natural Resources at (202) 225-2761 or [HNRR.Oversight@mail.house.gov](mailto:HNRR.Oversight@mail.house.gov) with any questions. We look forward to your cooperation.

Sincerely,



Bruce Westerman  
Chairman  
Committee on Natural Resources



James Comer  
Chairman  
Committee on Oversight and Accountability

# Congress of the United States

Washington, DC 20515

July 9, 2024

The Honorable Deb Haaland  
Secretary  
U.S. Department of the Interior  
1849 C Street  
Washington, D.C. 20240

Secretary Haaland:

The House Committee on Natural Resources and House Committee on Oversight and Accountability (Committees) write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

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The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, the Committees are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing the Department of the Interior (Department) and the committee of principal oversight jurisdiction under House Rule X, we assure you the Committees will exercise their robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

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<sup>3</sup> For purposes of this letter, the term “agency” applies to the Department of the Interior, and all bureaus within.

3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
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*v. United States*, 95 F.2d 352, 361 (D.C. Cir. 1938). Moreover, under House Rule X, the Committee on Natural Resources has “general oversight” of any matter relating to its jurisdiction, including all matters concerning the programs and operations of the U.S. Department of the Interior. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, “any matter” at “any time” under House Rule X.

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Sincerely,



Bruce Westerman  
Chairman  
Committee on Natural Resources



James Comer  
Chairman  
Committee on Oversight and Accountability

# Congress of the United States

Washington, DC 20515

July 9, 2024

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Ave SW  
Washington, D.C. 20201

Director Roselyn Tso  
Indian Health Service  
5600 Fishers Lane  
Rockville, MD 20857

Secretary Becerra and Director Tso:

The House Committee on Natural Resources and House Committee on Oversight and Accountability (Committees) write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

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As the committee of jurisdiction overseeing the Indian Health Service (IHS) and the committee of principal oversight jurisdiction under House Rule X, we assure you the Committees will exercise their robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

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Sincerely,



Bruce Westerman  
Chairman  
Committee on Natural Resources



James Comer  
Chairman  
Committee on Oversight and Accountability

# Congress of the United States

Washington, DC 20515

July 9, 2024

The Honorable Thomas J. Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Ave SW  
Washington, D.C. 20250

Chief Randy Moore  
U.S. Forest Service  
U.S. Department of Agriculture  
1400 Independence Ave SW  
Washington, D.C. 20250

Secretary Vilsack and Chief Moore:

The House Committee on Natural Resources, House Committee on Agriculture, and House Committee on Oversight and Accountability (Committees) write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

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Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, the Committees are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committees of jurisdiction overseeing the U.S. Department of Agriculture and the U.S. Forest Service (USFS), as well as the committee of principal oversight jurisdiction under House Rule X, we assure you the Committees will exercise their robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.

- c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

As you are aware, the Supreme Court has long recognized that Congressional oversight power is broad and far-reaching. *Barenblatt v. United States*, 360 U.S. 109 (1959). The Supreme Court has also established that Congress has a duty "to look diligently into every affair of

government” and “use every means of acquainting itself with the acts and the disposition of the administrative agents of the government.” *Doe v. McMillan*, 412 U.S. 306 (1973). Hence, a “legislative inquiry may be as broad, as searching, and as exhaustive as is necessary.” *Townsend v. United States*, 95 F.2d 352, 361 (D.C. Cir. 1938). Moreover, under House Rule X, the Committee on Natural Resources and the Committee on Agriculture has “general oversight” of any matter relating to its jurisdiction, including all matters concerning the programs and operations of USFS. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, “any matter” at “any time” under House Rule X.

An attachment to this letter provides additional instructions for responding to the requests from the Committees. Please contact the Majority staff for the Oversight and Investigations Subcommittee on the Committee on Natural Resources at (202) 225-2761 or [HNRR.Oversight@mail.house.gov](mailto:HNRR.Oversight@mail.house.gov) with any questions. We look forward to your cooperation.

Sincerely,



Bruce Westerman  
Chairman  
Committee on Natural Resources



G.T. Thompson  
Chairman  
Committee on Agriculture



James Comer  
Chairman  
Committee on Oversight and Accountability

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
MINORITY (202) 225-5051

<https://oversight.house.gov>

July 10, 2024

Christine J. Harada  
Chair  
Federal Acquisition Regulatory Council  
725 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20503

Dear Chair Harada:

I write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, I am compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing the Federal Acquisition Regulatory Council and its constituent agencies' participation in the Council and the Federal Acquisition Regulation, I assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July XX, 2024:

1. Please provide the following concerning the FAR Council agencies' legislative rules proposed or promulgated since January 20, 2021 concerning federal procurement, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
2. Please provide the following concerning the FAR Council agencies' adjudications initiated or completed since January 20, 2021 concerning federal procurement, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision.

- b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
    - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  3. Please provide the following concerning enforcement actions brought by the FAR Council agencies in court since January 20, 2021 concerning federal procurement, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
    - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
    - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
  4. Please provide the following concerning the FAR Council agencies' interpretive rules proposed or issued since January 20, 2021 concerning federal procurement, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
    - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
      - i. an annual effect on the economy of \$100,000,000 or more;
      - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
      - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
    - b. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules related to—
      - i. novel legal or policy issues arising out of legal mandates or the President's priorities; or

Chair Christine J. Harada

July 10, 2024

Page 4 of 4

- ii. other significant regulatory issues not already identified in response to Request 4(a) above.
5. Please provide the following concerning judicial decisions in cases concerning federal procurement to which any of the FAR Council agencies have been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Attached are instructions for producing the documents and information to the Committee. If you have any questions, please contact the Committee on Oversight and Accountability Majority staff at 202-225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, "any matter" at "any time" under House Rule X. Additionally, the Committee on Oversight and Accountability has specific oversight and legislative jurisdiction over the "[o]verall economy, efficiency, and management of government operations and activities, including Federal procurement" under House Rule X. Thank you for your attention to this important matter.

Sincerely,



James Comer

Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
MINORITY (202) 225-5051  
<https://oversight.house.gov>

July 10, 2024

The Honorable Robin Carnahan  
Administrator  
U.S. General Services Administration  
1800 F Street, N.W.  
Washington, D.C. 20006

Dear Administrator Carnahan:

I write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

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The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, I am compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing your agency, I assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July XX, 2024:

1. Please provide the following concerning your agency's legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
2. Please provide the following concerning your agency's adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.

3. Please provide the following concerning enforcement actions brought by your agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:
  - a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning your agency's interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
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5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984,

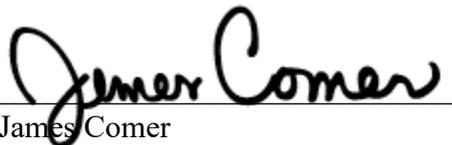
identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:

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Attached are instructions for producing the requested documents and information to the Committee. If you have any questions, please contact the Committee on Oversight and Accountability Majority staff at 202-225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, "any matter" at "any time" under House Rule X. Additionally, the Committee on Oversight and Accountability has specific oversight and legislative jurisdiction over the "[o]verall economy, efficiency, and management of government operations and activities, including Federal procurement" under House Rule X. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a horizontal line underneath the name.

James Comer

Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
MINORITY (202) 225-5051  
<https://oversight.house.gov>

July 10, 2024

The Honorable Rob Shriver  
Acting Director  
U.S. Office of Personnel Management  
1900 E Street, N.W.  
Washington, D.C. 20415

Dear Acting Director Shriver:

I write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted

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The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, I am compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing your agency, I assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July XX, 2024:

1. Please provide the following concerning your agency's legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
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Sincerely,



James Comer

Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

# Congress of the United States

Washington, DC 20515

July 10, 2024

The Honorable Isabella Casillas Guzman  
Administrator  
United States Small Business Administration  
409 3rd Street, SW  
Washington, DC 20416

Dear Administrator Guzman:

The House Committee on Small Business and House Committee on Oversight and Accountability (the Committees) write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>.

*Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden Administration’s track record, however, the Committees are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Committees of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden Administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 24, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
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4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
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    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
  - b. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules related to—
    - i. novel legal or policy issues arising out of legal mandates or the President's priorities; or
    - ii. other significant regulatory issues not already identified in response to Request 4(a) above.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

The Honorable Isabella Casillas Guzman

July 10, 2024

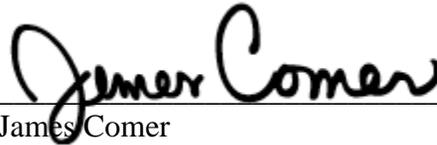
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To schedule the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Small Business Majority Staff at (202) 225-5821 or Committee on Oversight and Accountability Majority staff at (202) 225-5074. The Committee on Small Business has broad authority to investigate “problems of all types of small business” under House Rule X. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



Roger Williams  
Chairman  
Committee on Small Business



James Comer  
Chairman  
Committee on Oversight and Accountability

cc: The Honorable Nydia M. Velázquez, Ranking Member  
Committee on Small Business

The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Alejandro Mayorkas  
Secretary  
United States Department of Homeland Security  
2707 Martin Luther King Jr. Ave. SE  
Washington, D.C. 20528

Secretary Mayorkas:

I write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules — such as those promulgated to impose President Biden's climate, energy, and Environment, Social and Governance (ESG) agendas — have been based on aggressive interpretations of statutes enacted

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Secretary Mayorkas

July 10, 2024

Page 2 of 4

by Congress years and even decades ago, before many issues against which the Biden Administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry, and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of Federal agencies' overreach. Given the Biden Administration's track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As Committees overseeing your agency, I assure you I will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden Administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following as soon as possible, but no later than 5:00 p.m. ET on July 24, 2024:

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Pursuant to House Rule X, the Committees have jurisdiction over these issues and shall conduct appropriate oversight of these actions. This request and any documents created as a

Secretary Mayorkas

July 10, 2024

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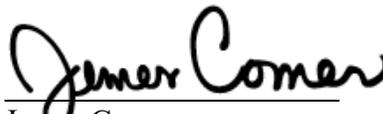
If you have any questions about this request, please contact Meghan Holland, General Counsel, Committee on Transportation and Infrastructure, at [Meghan.Holland@mail.house.gov](mailto:Meghan.Holland@mail.house.gov). Thank you for your prompt attention to this matter.

Sincerely,



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Sam Graves  
Chairman  
Committee on Transportation  
and Infrastructure



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James Comer  
Chairman  
Committee on Oversight  
and Accountability

cc: The Honorable Rick Larsen, Ranking Member  
Committee on Transportation and Infrastructure

The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Pete Buttigieg  
Secretary  
United States Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Secretary Buttigieg:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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Secretary Buttigieg

July 10, 2024

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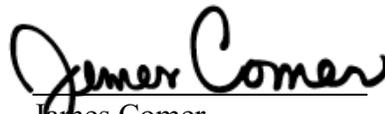
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Committee on Transportation  
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James Comer  
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cc: The Honorable Rick Larsen, Ranking Member  
Committee on Transportation and Infrastructure

The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Michael Regan  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Administrator Regan:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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Administrator Regan

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Sam Graves  
Chairman  
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James Comer  
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cc: The Honorable Rick Larsen, Ranking Member  
Committee on Transportation and Infrastructure

The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

**Congress of the United States**  
**Washington, DC 20515**

July 09, 2024

The Honorable Denis R. McDonough  
Secretary  
Department of Veterans Affairs  
810 Vermont Ave. NW  
Washington, DC 20420

Secretary McDonough:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty, and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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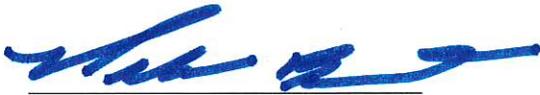
however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the Chairmen of the Committees with jurisdiction to oversee the Department of Veterans Affairs (VA), we assure you we will exercise the Committees' robust investigative and legislative powers not only to reassert forcefully Congress' Article I responsibilities, but to ensure the Biden Administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024:

1. Please provide the following concerning agency rules and regulations proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which VA is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
2. Please provide the following concerning adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which VA is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
3. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets, and VA statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of VA containing interpretive rules likely to lead to—
    - i. an annual effect on the economy or requiring a budget request of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions;  
or

- iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete in domestic markets.
- 4. Please provide the following concerning judicial decisions in cases to which VA has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority VA interpreted, and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Sincerely,



**MIKE BOST**  
Chairman  
Committee on Veterans Affairs



**JAMES COMER**  
Chairman  
Committee on Oversight and  
Accountability

Cc: The Honorable Mark Takano, Ranking Member  
The Honorable Jamie Raskin, Ranking Member

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Gina M. Raimondo  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20230

Secretary Raimondo:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

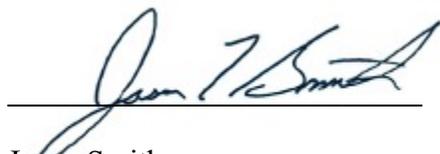
*Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 24, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

- a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Sincerely,



Jason Smith  
Chairman  
Committee on Ways and Means



James Comer  
Chairman  
Committee on Oversight

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Secretary Becerra:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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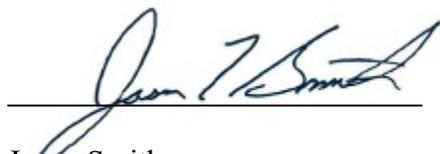
*Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 24, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

- a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
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5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Sincerely,



Jason Smith  
Chairman  
Committee on Ways and Means



James Comer  
Chairman  
Committee on Oversight

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Julie A. Su  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Secretary Su:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its

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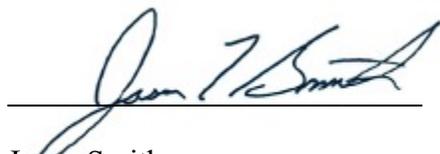
*Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 24, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
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3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

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  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Sincerely,



Jason Smith  
Chairman  
Committee on Ways and Means



James Comer  
Chairman  
Committee on Oversight

# Congress of the United States

Washington, DC 20515

July 10, 2024

The Honorable Martin O'Malley  
Commissioner  
Social Security Administration  
6401 Security Boulevard  
Baltimore, MD 21235

Commissioner O'Malley:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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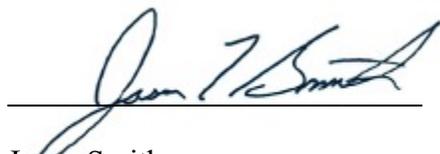
*Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

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1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
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Sincerely,



Jason Smith  
Chairman  
Committee on Ways and Means



James Comer  
Chairman  
Committee on Oversight

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Janet Yellen  
Secretary  
U.S. Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Secretary Yellen:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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<sup>1</sup> *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024).

<sup>2</sup> See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118<sup>th</sup> Cong. (May 22, 2024) (statement of Dan Goldbeck, Director of Regulatory Policy, American Action Forum), available at <https://www.americanactionforum.org/testimony/burdensome-regulations-examining-the-biden-administrations-failure-to-consider-small-businesses/>

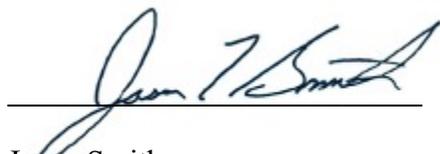
*Chevron* error, reaffirming that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” 603 U.S. at \_\_\_ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies’ overreach. Given the Biden administration’s track record, however, we are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing your agency, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court’s *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 24, 2024:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency rules not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:
  - a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court’s *Loper Bright* decision.
  - b. A list of all final agency adjudications not yet challenged in court that may be impacted by the Court’s *Loper Bright* decision if they are so challenged.
  - c. A list of all pending agency adjudications in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court’s decision in *Loper Bright*.
3. Please provide the following concerning enforcement actions brought by the agency in court since January 20, 2021, identifying in each relevant listing the agency statutory interpretation sought to be enforced:

- a. A list of all pending enforcement actions in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.
  - b. A list of all concluded enforcement actions in which the court deferred under *Chevron* to an agency interpretation of statutory authority as a basis for its judgment against a non-agency party.
4. Please provide the following concerning agency interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the agency statutory interpretation set forth in the rule:
  - a. A list of all proposed or final agency guidance documents or other documents or statements of the agency containing interpretive rules likely to lead to—
    - i. an annual effect on the economy of \$100,000,000 or more;
    - ii. a major increase in costs or prices for consumers, individual industries, Federal, State, local, or Tribal government agencies, or geographic regions; or
    - iii. significant adverse effects on competition, employment, investment, productivity, innovation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.
5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:
  - a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

Sincerely,



Jason Smith  
Chairman  
Committee on Ways and Means



James Comer  
Chairman  
Committee on Oversight

**Congress of the United States**  
Washington, DC 20515

July 10, 2024

The Honorable Katherine Tai  
Ambassador  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Ambassador Tai:

We write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.<sup>1</sup> In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

Perhaps no administration has gone as far as President Biden's to found sweeping and intrusive agency dictates on such questionable assertions of agency authority. The Biden Administration has promulgated far more major rules, imposing far more costs and paperwork burdens, than either of its recent predecessor administrations.<sup>2</sup> Many of these rules—such as those promulgated to impose President Biden's climate, energy and Environment, Social and Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its

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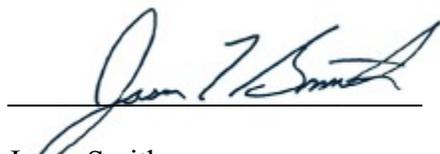
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