ENVIRONMENTAL AND ENERGY
INFORMATION MEMO

JULY 2, 2024

Agencies "Rule" No More – Federal Agency Deference Standard is Overruled

In *Loper Bright Enterprises v. Raimondo*, by a 6-3 vote, the United States Supreme Court (Court) overruled *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.,* a 1984 decision holding that where a federal statute is silent or ambiguous with respect to an issue, federal courts must defer to a reasonable interpretation of an administrative agency (such as the U.S. Environmental Protection Agency or OSHA), even if the court had a different interpretation of the statute. In *Loper Bright*, the Court held that courts must exercise their independent judgment when evaluating whether an administrative agency has acted within the limits of its statutory authority, and thus, the prior rule of administrative deference is gone.

Chief Justice Roberts delivered the majority opinion, calling *Chevron* "fundamentally misguided," and writing that *Chevron* could not be reconciled with the Administrative Procedure Act, the statute that governs federal agencies' regulatory processes. Moreover, Chief Justice Roberts wrote that statutory ambiguities do not equate to congressional intent for an agency to resolve an interpretive question. The Chief Justice stated that resolution of statutory ambiguities is fundamentally an issue of legal interpretation and is therefore the purview of the judiciary rather than agencies. Simply because there is an agency to "fall back on" does not mean that the task requires an agency's technical expertise nor becomes policymaking. Proponents of *Chevron* argued that the framework yielded greater uniformity among courts weighing in on agency actions, but the majority disagreed. Principals of stare decisis do not require the Court to continue *Chevron*.

Although *Chevron* is overruled, the numerous cases that were decided in accordance with *Chevron* remain valid. Nevertheless, *Loper Bright* will likely spur an increase in litigation challenging federal agency decision making. Moreover, as future cases provide opportunities to revisit prior administrative agency determinations that were upheld under *Chevron*, some determinations will not withstand scrutiny under the *Loper Bright* test. Rules intended to protect the environment, including those related to climate change, as well as worker safety, health and energy appear particularly susceptible to challenge.

Loper Bright will impact federal agency interpretations only, and it will not affect state law.

If you have any questions regarding the material provided in this informational memo, please contact Robert Tyson, or an attorney in Bond's environmental and energy practice with whom you are regularly in contact.

**Special thanks to Summer Law Clerk Cecilia Brey for her assistance in the preparation of this memo.*

BOND SCHOENECK & KING ATTORNEYS