Press Release

The Administrative State After Chevron

PAULINA ENCK | AUGUST 8, 2023

On June 15, the House of Representatives passed the Separation of Powers Restoration Act of 2023 (SOPRA), which would permit courts to decide *de novo* questions of statutory interpretation and administrative rulemaking when federal agencies promulgate regulations. In a new insight, Director of Regulatory Policy Dan Goldbeck and Shantanu Kamat walk through the Supreme Court cases that SOPRA would override and examine the impact of eliminating one such case, *Chevron v. NRDC*, which holds that courts should generally grant agencies a great deal of deference in their rulemakings.

Goldbeck and Kamat conclude:

> *Agencies undoubtedly have a great deal of substantive expertise in their issue areas. Yet their aggrandizement of power has allowed mission creep to go unaddressed, raised costs for individuals and businesses, and imbalanced the constitutional separation of powers. If Chevron deference is eliminated or restricted, agencies will have to abide by Congress' words and intent in framing legislation and will be required to think more carefully about whether proposed rules fall within their duly granted authority. The Supreme Court has the opportunity in Loper Bright Enterprises v. Raimondo to arrest the decades-long and accelerating trend of regulatory expansionism. It would be no exaggeration to say that the end of Chevron would be the biggest change to regulatory policy in years.*

Read the analysis