DEMOCRACY FORWARD

TO: Interested Parties
FROM: Democracy Forward Foundation
DATE: August 12, 2025
RE: Year One of *Loper Bright*: August Update

INTRODUCTION

Democracy Forward Foundation continues to track US Supreme Court decisions that have changed the landscape of administrative law, including how litigants and courts are citing and applying these decisions.[1] In particular, we have closely monitored the ripple effects of *Loper Bright Enterprises v. Raimondo*,[2] which overturned the longstanding doctrine of *Chevron* deference requiring courts to defer to agency interpretations of ambiguous statutes. Under *Loper Bright*, by contrast, courts must "exercise their independent judgment" to ascertain the "best reading" of statutes, even when ambiguous.[3]

On June 23, 2025, we published ***Year One of Loper Bright***, describing trends in *Loper Bright*'s application since the opinion came down. This August Update provides updated numbers of filings and court cases, as well as case summaries for 18 new substantive court decisions. **Since the opinion came down, *Loper Bright* has now been cited in at least 127 cases and 164 filings, resulting in substantive discussions of the opinion in 100 court decisions.**[4]

Overall, trends regarding *Loper Bright* remain unchanged after accounting for new cases, including that a majority of courts have applied *Loper Bright* to vindicate agency interpretations of federal statutes, and that there is significant variance across federal circuits and subject areas. More detailed analysis of those trends is available in the June memo linked above. Since that memo, the Supreme Court decided *Federal Communications Commission v. Consumers' Research*.[5] While the Court rejected a nondelegation challenge to the Universal Service Fund administered by the Federal Communications Commission, Justice

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[1] In June 2024, the Supreme Court decided *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, 603 U.S. 799 (2024), and *Securities and Exchange Commission v. Jarkesy*, 603 U.S. 109 (2024), all of which changed various aspects of longstanding administrative law.

[2] Decided alongside *Relentless, Inc. v. United States Department of Commerce*, No. 22-1219 (June 28, 2024). The lower court in *Relentless*, on remand and on the merits, ultimately upheld the rule at issue using a "best reading" analysis, as it had under *Chevron* deference (see below).

[3] 603 U.S. at 373, 412.

[4] The information provides an update to our June 23, 2025 initial release and is current as of July 21, 2025. Cases were excluded if they did not meaningfully engage with *Loper Bright*. The hyperlinks refer to Westlaw citations. If you are aware of a case that you believe should be included or need assistance obtaining linked material, please contact a member of the Democracy Forward Foundation team listed at the end of this document.

[5] 606 U.S. ___, 145 S. Ct. 2482 (2025).

Kavanaugh's concurrence referred to *Loper Bright* as a decision that has "substantially mitigated" "many of the broader structural concerns about expansive delegations" the Court has expressed in recent years.[6]

Finally, we saw no discernable trend in the small number of additional cases implicating *Loper Bright* levied against the Trump-Vance administration, but we will continue monitoring those cases as they progress through the courts.

Below are summaries of *Loper Bright* cases decided between June 1 and July 21, 2025, categorized by the court's reasoning in the case; an explanation of that categorization system is below. Following the case summaries, we have also provided an updated appendix containing all cases substantively applying *Loper Bright* since the opinion came down, categorized by issue area.

- **Categorization by reasoning:** Where courts have vindicated or rejected agency interpretations post-*Loper Bright*, we find that they have generally done so on the grounds listed below. Please note that these categories represent an initial attempt at a framework for analyzing post-*Loper Bright* jurisprudence, and that courts are not always clearly or consistently applying the case.[7]

  Agency Interpretation Vindicated

  - *Agency interpretation aligns with the court's best reading*: Under *de novo* review, the court explicitly or implicitly sides with the agency's interpretation.
  - *Clear congressional delegation of agency discretion*: The court finds that the statute gives the agency discretion to define the statutory language at issue.
  - *Unambiguous statute*: The court finds that the statute provides an unambiguous "best reading."
  - *Decline to disturb existing* Chevron *precedent*: The court cites to *Loper Bright*'s emphasis on statutory *stare decisis* and declines to upset past precedent, even if that precedent is based on now-overruled *Chevron* deference.
  - Skidmore *or* Auer *deference applied*: The court applies alternative deference doctrines.

  Agency Interpretation Rejected

  - *Court substitutes best reading*: The court rejects the agency's interpretation of the statutory language and determines the "best reading" itself.

[6] *Id.* at 2515.

[7] These categories are somewhat fluid and not necessarily mutually exclusive; in some instances, courts may uphold or strike down the relevant regulation on other grounds.

AGENCY INTERPRETATION VINDICATED: ALIGNS WITH BEST READING

Seville Indus., LLC v. U.S. Small Bus. Admin. (5th Cir. July 15, 2025): The plaintiff company received a COVID-19 Payroll Protection Program (PPP) loan based in part on counting its independent contractors as part of "payroll costs." The Fifth Circuit, citing *Loper Bright*, determined that the best reading of "payroll costs" in the CARES Act (which governed the PPP) excluded individual contractors as the Small Business Administration (SBA) had interpreted it, and sided with the SBA as to the agency only partially forgiving the loan.

Pac. Gas & Elec. Co. v. FERC (9th Cir. July 11, 2025): The Ninth Circuit affirmed the Federal Energy Regulatory Commission's interpretation of Section 219(c) of the Federal Power Act, under which it denied petitioners' request for a rate incentive, or "adder," because petitioners' participation in a certain California program was not voluntary, as required by the statute. Noting that *Loper Bright* required courts to exercise independent judgment but that agency interpretations retained the "power to persuade," the court found that the best reading of Section 219(c) aligned with FERC's reading.

United States v. Legrand (S.D.W. Va. July 7, 2025): In a case interpreting what constituted an "offense" for purposes of two-level downward adjustments for sentences, the court conducted a best reading analysis of the criminal statute and the accompanying Sentencing Commission's Guidelines. It determined that, without deference, its employment of traditional statutory interpretation led to a reading of Section 3553(f)(2) that comported with the Commission's interpretation in Guideline 5C1.2(a)(1).

Moxon Corp. v. Comm'r of Internal Revenue (T.C. July 2, 2025): In a case regarding the IRS Commissioner's ability to assess penalties in partnership-level proceedings, the Tax Court held that even under the *Loper Bright* standard, the Commissioner's interpretation of the tax code accorded with the "plain reading" and caselaw supporting the interpretation.

United Cook Inlet Drift Ass'n v. Nat'l Marine Fisheries Serv. (D. Alaska July 1, 2025): The district court rejected a challenge to the National Marine Fisheries Service's designation of salmon within the Cook Inlet for federal management purposes. The best reading of the Magnuson-Stevens Act, the court determined, did not require the Service to encompass state waters because the statute focused on the federal fishery.

MSC Mediterranean Shipping Co. S.A. v. Fed. Maritime Comm'n (D.C. Cir. June 24, 2025): The D.C. Circuit concluded that the best reading of the Shipping Act of 1984 permitted the Federal Maritime Commission to adjudicate Shipping Act violations, contrary to the petitioner's arguments. The D.C. Circuit concluded that the Act clearly contemplates Commission enforcement of Shipping Act violations, and that the provision requiring actions in district court for certain breach of contract claims was not meant to preclude Commission enforcement of Shipping Act violations even when part of a breach of contract claim.

AGENCY INTERPRETATION VINDICATED: CLEAR CONGRESSIONAL DELEGATION OF AUTHORITY

Relentless, Inc. v. U.S. Dep't of Commerce (D.R.I. July 15, 2025): On remand, the district court in *Relentless, Inc.*, the companion case to *Loper Bright*, upheld the regulation requiring fishing vessels to bear the costs of mandated monitors aboard the vessel. It determined that the National Marine Fisheries Service was delegated broad discretion under the best reading of the Magnuson-Stevens Act to enact regulations necessary for fishing conservation.

Angels of Care Home Health, Inc. v. Kennedy (N.D. Tex. June 23, 2025): In a case concerning Medicare overpayments by a home health provider, the court determined that the best reading of the statute delegated authority to the Department of Health and Human Services (HHS) to set the standard for courts reviewing that authority, and so HHS's use of a substantial evidence standard for judicial review was proper.

AGENCY INTERPRETATION VINDICATED: COURT DECLINED TO DISTURB *CHEVRON* PRECEDENT

United States v. Sacanell (E.D. Pa. July 10, 2025): In a challenge by a criminal defendant charged with insider trading, the court rejected the invitation by the defendant to reconsider precedent under *Chevron* regarding the Securities and Exchange Commission's (SEC) rulemaking power. It both held that the precedent had not been called into question by *Loper Bright* and that the SEC had been delegated discretion by Congress to promulgate the rule at issue.

AGENCY INTERPRETATION REJECTED: COURT SUBSTITUTED BEST READING

Nolasco-Rodriguez v. Bondi (9th Cir. July 17, 2025): The Ninth Circuit rejected the Bureau of Immigration Appeal's (BIA) argument that reckless assault on a pregnant person under Oregon law is categorically a crime of moral turpitude (CIMT) under federal immigration law. The court noted that, post-*Loper Bright*, courts no longer defer to the BIA's interpretation of the term CIMT, and "[e]ven assuming *Skidmore* deference applies, neither case changes the outcome here."

Am. Wild Horse Campaign v. Raby (10th Cir. July 14, 2025): The Tenth Circuit, citing *Loper Bright*, rejected both the Bureau of Land Management's (BLM) and petitioners' interpretations of the Wild Horse Act, as applied to certain changes to wild horse herd management plans. The court found that BLM had ignored a key piece of the Wild Horse Act requiring it to achieve "thriving natural ecological balance," and therefore its action was arbitrary and capricious.

Duffus v. MaineHealth (D. Me. July 14, 2025): In a case interpreting the Emergency Medical Treatment and Labor Act's (EMTALA) "stabilization and transfer" (SAT) provisions, the court rejected a hospital's argument that regulations by the Centers for Medicare and Medicaid Services (CMS) allowed the hospital to satisfy the SAT requirement simply by admitting the patient. Applying and extensively discussing *Loper Bright*, the court determined that the best reading of EMTALA's plain text did not grant CMS discretion to create such a rule changing the statutory language regarding SAT.

Perez-Flores v. Bondi (W.D.N.Y. July 14, 2025): In granting a habeas petitioner, the court found that the defendant's motion for stay of removal, in combination with the government's own "forbearance policy," had resulted in a "substantive impediment" to removal. That substantive impediment rendered the defendant detained under 8 U.S.C. Section 1226 for noncitizens that are not immediately deportable (thus rendering the detainee eligible for a bond hearing). It rejected the government's argument that the petitioner was instead detained under 8 U.S.C. Section 1231, which permits detention of up to 90 days for noncitizens that are considered immediately deportable. In a footnote, the court cited *Loper Bright* to affirm that the agency's interpretation of the relevant statutes did not bind the court.

Ctr. for Biological Diversity v. U.S. Fish & Wildlife Serv. (D.D.C. July 11, 2025): The court vacated the Fish and Wildlife Service's (FWS) determination not to protect the eastern black rail's "critical habitat" as not "prudent," because FWS failed to adhere to the Endangered Species Act's (ESA) requirements for reasoned decisionmaking. Citing *Loper Bright*, the court found that FWS's interpretation of the procedural provisions of the ESA is "at odds with the text and structure."

Grand Trunk Corp. v. Surface Transp. Bd. (7th Cir. July 8, 2025): The Seventh Circuit, citing *Loper Bright*, vacated a final rule by the Surface Transportation Board (STB) that allowed the Board to require carriers with monopolies on certain rail lines to compete with other carriers in response to service problems during the COVID-19 pandemic. It determined that the STB exceeded its authority under the Staggers Rail Act in promulgating the final rule, because the best reading of the statute did not permit the STB to require competition with other carriers

without a finding that the agreements are "in the public interest" or "necessary" to providing competitive rail service.

JM Assets, LP v. Comm'r of Internal Revenue (T.C. July 2, 2025): In a case regarding whether a Final Partnership Adjustment notice sent by the IRS Commissioner was timely, the Tax Court concluded that the best reading of 26 U.S.C. Section 6235(a)(2) gave the Commissioner 270 days from the date it received all required documents from a taxpayer. Because the Commissioner had sent the notice after that date, a regulation allowing him to do so conflicted with the best reading of the statute.

Inst. S'holder Servs., Inc. v. SEC (D.C. Cir. July 1, 2025): In a challenge to an SEC regulation that expanded the statutory term "solicitation," the D.C. Circuit concluded that the best reading of the statutory term "solicit" did not support the rule. The rule ran counter to the meaning of "solicit" within the Securities Exchange Act, which the D.C. Circuit best read to refer to soliciting proxy authority (authority given by a shareholder to a proxy to vote on the shareholder's behalf). The SEC's regulation, by contrast, expanded solicitation by including third parties that provide non-binding recommendations on votes, even where a shareholder ultimately retained the right to vote themselves.

Castillo v. Bondi (6th Cir. June 18, 2025): The Sixth Circuit, citing *Loper Bright*, determined that the "best reading" of a statute rendering removable an "alien ... convicted of a crime of ... child abuse" only applied to those who were convicted of the crime when they were an alien, and not when they were a citizen, even if their citizenship was fraudulently obtained and later revoked. Because the petitioner was a citizen at the time of the crime, the child abuse exception did not apply.

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For additional information or to connect with a member of Democracy Forward's team on these issues, including Somil Trivedi (Director of Strategic Initiatives), Julia Szybala (Interim Director for Oversight and Engagement), or Gilbert Orbea (Legal Analyst), ***please email adminlaw@democracyforward.org****.*

To reach the broader community focused on post-Chevron issues, please email postchevronplanning@democracyforward.org

APPENDIX: Cases by Topic

Bold denotes cases where the agency action was struck down. Cases new as of this August 2025 update are noted with an asterisk (*); otherwise, case blurbs appear in the June 23 memo.

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TAX & CORPORATE REGULATION

CRIMINAL JUSTICE