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Gavel to Gavel: Supreme Court's recent term leaves a weakened administrative state

By: Brooks Richardson GableGotwals, July 31, 2024



Brooks A. Richardson

The United States Supreme Court issued numerous blockbuster decisions this past term, but four decisions will collectively have major impacts on the functions of federal agencies for decades to come. Every business operating in a regulated industry should consider how these cases may impact their future operations.

In *Securities and Exchange Commission v. Jarkesy*, the Court held that the SEC's practice of imposing fines in administrative proceedings violates the Seventh Amendment's right to a jury trial in all suits at common law. The decision will impair the enforcement capabilities of multiple federal agencies, including the FDA, EPA, FCC, and CFPB, which rely on civil penalties as key enforcement mechanisms. The dissent called the decision "a devastating blow to the manner in which our government functions."

In *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, a 6-3 majority ruled a North Dakota truck stop can challenge a 13-year-old regulation by the Federal Reserve Board. The decision expands the right of regulated entities to challenge federal regulations by holding the statute of limitations starts running when a plaintiff is injured by the regulation, not when the regulation is issued. The dissent predicted the majority's decision will be "profoundly destabilizing" by placing "even the most well-settled agency regulations . . . on the chopping block."

In *Loper Bright Enterprises v. Raimondo*, a 6-3 majority overruled the 40-year-old *Chevron* doctrine, which required courts to defer to agency interpretations of **ambiguous statutory language** if reasonable. The *Loper Bright* majority held that courts should interpret ambiguous laws independently, without deference to agency interpretations. The dissent warned of the ruling's destabilizing effects on the legal system and regulatory enforcement.

In *Ohio v. Environmental Protection Agency*, a 5-4 majority held that if a federal agency fails to provide a reasoned response to comments raised during the rulemaking process, a court may consider the final rule unlawful.

In combination, these decisions will have a profound effect on the federal regulatory landscape—some good, some bad. While federal administrative overreach will likely be curbed, businesses and entities will now need to prepare for frequent and increasing regulatory uncertainty. Dozens if not hundreds of federal judges, along with juries in civil penalty enforcement cases, will reach inconsistent results on the meaning and scope of federal regulations applied in the context of complex, technical issues.

The wild, wild west is back.

Brooks A. Richardson is a shareholder in the [GableGotwals](#) Oklahoma City office.

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