
From: (b)(6)
Sent: 9/4/2024 12:07:01 PM
To: OLA OCC (b)(6)
Subject: FW: OLA-24-01896 NEW ASSIGNMENT: COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo

Minor copyedit (comma after year).

From: DoNotReply-CRM (b)(6)
Sent: Tuesday, September 3, 2024 5:34 PM
To: OLA OCC (b)(6)
Subject: OLA-24-01896 NEW ASSIGNMENT: COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo
Importance: Low



OLA CATT System Generated Alert

Hello OCC,

This is to inform you that you have been given an assignment to REVIEW AND CLEAR/COMMENT for Work Package OLA-24-01896, which is due by 9/10/2024 5:00:00 PM (Eastern Time).

IQ Link (if any):

A full list of assignees include: @OV; @HQ; @OCC;

The instructions for the Assignment are:

Summary: Writes regarding Loper Bright v. Raimondo.

- To view and complete your Assignment in CATT, [click here](#)
- To view the provided documents for this Assignment in SharePoint, [click here](#)

PLEASE DO NOT REPLY TO THIS EMAIL

Thank you,

(b)(6)

OLA ExecSec

To learn more about how to complete this assignment in CATT, [">click here](#)

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.¹ 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.² 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.”³ 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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² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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>.

³ *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;
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- 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:
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- 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.

Thank you for your prompt attention to this important matter.

Sincerely,

(b)(6)

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

(b)(6)

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*,¹ **which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.***² 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.³ 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.⁴ 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 interprets the laws, and the executive branch enforces the laws.⁵ 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).⁶ As such, and in light of the Court's *Loper Bright* decision, the Committee must

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

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⁶ The Separation of Powers Restoration Act of 2023, H.R. 288, 118th 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:
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 - 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.”⁷ If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,

(b)(6)

JIM JORDAN
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

⁷ 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*,¹ **which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.***² 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.³ 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.⁴ 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 interprets the laws, and the executive branch enforces the laws.⁵ 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.

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Sincerely,

(b)(6)

John J. Forman
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

⁷ Rules of the U.S. House of Representatives, R. X (2023).

Sent: 9/12/2024 7:47:11 PM

To:

(b)(6)

Subject: RE: AOS NPRM

Hi (b)(6) wanted to follow up about this to ask about the status of AOS.

(b)(6)

(pronunciation)

Senior Counselor, Office of the Secretary
Department of Homeland Security

(b)(6)

From: (b)(6)

Sent: Tuesday, August 27, 2024 2:52 PM

To: (b)(6)

(b)(6)

Subject: Re: AOS NPRM

Hi (b)(6)

This provision on priority date retention remains in the NPRM.

Thanks,

(b)(6)

From: (b)(6)

Sent: Tuesday, August 27, 2024 1:22 PM

To: (b)(6)

(b)(6)

Subject: RE: AOS NPRM

Also, quick follow-up question: I see this listed in the summary; will this feature in 2.0, or will it be struck?

- **Relief for Employees of NATO, the World Bank, and Other International Organizations.** *(This needs further review with the removal of the “immediately available” concept.)* International organization retirees are also challenged by lengthy wait times for EB-4 immigrant visas, as their temporary (nonimmigrant) status will expire before EB-4 permanent residency is available. The NPRM would allow these international organization retirees to switch more easily and quickly to another green card pathway, if they are eligible. For example, an International Monetary Fund retiree with certain credentials could more quickly obtain a green card for noncitizens of “extraordinary ability” (EB-1), obviating the need to wait over a decade for a green card based on their international organization retiree status. This provision could also help religious workers as well as noncitizen broadcasters working for Voice of America, Radio Free Asia, and other entities under the U.S. Agency for Global Media obtain permanent residency faster.

(b)(6)

(pronunciation)

Senior Counselor, Office of the Secretary
Department of Homeland Security

(b)(6)

From: (b)(6)

Sent: Tuesday, August 27, 2024 1:19 PM

To: (b)(6)

(b)(6)

Subject: RE: AOS NPRM

Super helpful – thanks! Can you let us know when you anticipate the AOS NPRM will be updated to

(b)(5)

(b)(5)

will also reflect any changes that need to be made in light of Super Drone, correct? I'll follow up with OGC about

(b)(5)

(b)(5)

(b)(6)

(pronunciation)

Senior Counselor, Office of the Secretary
Department of Homeland Security

(b)(6)

From: (b)(6)

Sent: Tuesday, August 27, 2024 12:47 PM

To: (b)(6)

(b)(6)

(b)(6)

Subject: RE: AOS NPRM

Hi (b)(6) and (b)(6)

Great to talk with you just now! I believe that the attached file is the most recent version of the summary of provisions in "AOS NPRM 2.0" (which does *not* include the "immediately available" / Dates for Filing provision).

Thanks and talk soon,

(b)(6)

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

RECEIVED

By ESEC at 8:43 am, Jul 11, 2024

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.¹ 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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 - 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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Thank you for your prompt attention to this important matter.

Sincerely,

(b)(6)

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

(b)(6)

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

From: Congresswoman [REDACTED] (b)(6)
[REDACTED] (b)(6)
Sent: 7/10/2024 1:09:06 PM
To: OLA Hill Inquiries [REDACTED] (b)(6)
[REDACTED] (b)(6)
Subject: FW: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision
Attachments: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision

From: (b)(6)
Sent: 10/4/2024 2:00:59 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

We'll review and get back to you.

(b)(6)
(b)(6) (mobile)
(b)(6)

From: (b)(6)
Sent: Friday, October 4, 2024 9:51 AM
To: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Good morning (b)(6)

I apologize this fell through the cracks on my end—I was just pinged about it. The draft responses to the Congressional letters on *Loper Bright* are still in circulation. Congressional Oversight received component input which they would like our feedback on. The relevant items are below. Fortunately, I don't think this will take long.

Thanks,

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 4:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

(b)(6)

Subject: RE: EX (b)(6)

Thanks, (b)(6) Can you share with Jackson and flag the comment in the USCG version for him?

Jon

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

DHS-001-13155-000020

(b)(6)

Subject: RE: (b)(6)

Hi Jon,

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 9:46 AM

To: (b)(6)

(b)(6)

Subject: RE: EXT (b)(6)

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: (b)(6)

(b)(6)

Subject: EXT (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (b)(6)

(b)(6) and (b)(6)

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN

C-LAN

(b)(6)

From: (b)(6)
(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EC91D2A23D6547D8861E5A6ECC2651BC-MCDONALD, C]
Sent: 10/10/2024 8:03:28 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Ah. I knew there was something I was missing with all this flurry of activity. I'll get on this right now.

(b)(6)

(b)(6) (mobile)

(b)(6)

From: (b)(6)
Sent: Thursday, October 10, 2024 3:48 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Circling back on this.

From: (b)(6)
Sent: Friday, October 4, 2024 10:01 AM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

We'll review and get back to you.

(b)(6)

(b)(6) (mobile)

(b)(6)

From: (b)(6)
Sent: Friday, October 4, 2024 9:51 AM
To: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Good morning: (b)(6)

I apologize this fell through the cracks on my end—I was just pinged about it. The draft responses to the Congressional letters on *Loper Bright* are still in circulation. Congressional Oversight received component input which they would like our feedback on. The relevant items are below. Fortunately, I don't think this will take long.

Thanks,

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 4:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(5)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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^[1] 144 S. Ct. 2244, 2270 (2024).

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From: (b)(6)
Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)
(b)(6)

Subject: RE: EXT (b)(6)

Thanks, (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

Jon

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)
(b)(6)

Subject: RE: EXT (b)(6)

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM

To: (b)(6)
(b)(6)

Subject: RE: EXT (b)(6)

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
(b)(6)
Subject: EXT (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (b)(6) (b)(6) and (b)(6).

Best,

(b)(6) (she/her)
Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security
Cell: (b)(6)
A-LAN: (b)(6)
C-LAN: (b)(6)

From: (b)(6)
Sent: 10/10/2024 8:19:45 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(6)

Below are my answers to the USCG's comments in the Loper letter. Can you ask oversight to send us a final copy of the outgoing letter?

For #1: Recommend that we (b)(5)

For #2: Recommend (b)(5)

Here is my rationale for that recommendatnoi:

(b)(5)

(b)(6)

(b)(6)

(mobile)

(b)(6)

From: (b)(5)
Sent: Thursday, October 10, 2024 3:48 PM
To: (b)(5)
Subject: RE: Loper Bright Draft Congressional Responses

Circling back on this.

From: (b)(6)
Sent: Friday, October 4, 2024 10:01 AM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

We'll review and get back to you.

(b)(6)

(b)(6)

(mobile)

(b)(6)

From: (b)(6)
Sent: Friday, October 4, 2024 9:51 AM
To: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Good morning (b)(6)

I apologize this fell through the cracks on my end—I was just pinged about it. The draft responses to the Congressional letters on *Loper Bright* are still in circulation. Congressional Oversight received component input which they would like our feedback on. The relevant items are below. Fortunately, I don't think this will take long.

Thanks,

(b)(6)

From (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(5)

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

(b)(6)

Subject: RE: EXT (b)(6)

Thanks, (b)(6) Can you share with Jackson and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

(b)(6)

Subject: RE: EXT (b)(6)

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent:

To: (b)(6)

(b)(6)

Subject: RE: EXT- (b)(6)

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: PARNES, JONATHAN <JONATHAN.PARNES@hq.dhs.gov>; Eaton, Jackson <jackson.eaton@hq.dhs.gov>; DE LA NUEZ, NELSY <NELSY.DELANUEZ@hq.dhs.gov>

Subject: EXT (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (b)(6) (b)(6)

(b)(6) and (b)(6).

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN (b)(6)

C-LAN (b)(6)

.....

.....

.....

From: (b)(6)
Sent: 10/10/2024 7:47:44 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Circling back on this.

From: (b)(6)
Sent: Friday, October 4, 2024 10:01 AM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

We'll review and get back to you.

(b)(6)

(b)(6) (mobile)

(b)(6)

From: (b)(6)
Sent: Friday, October 4, 2024 9:51 AM
To: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Good morning (b)(6)

I apologize this fell through the cracks on my end—I was just pinged about it. The draft responses to the Congressional letters on *Loper Bright* are still in circulation. Congressional Oversight received component input which they would like our feedback on. The relevant items are below. Fortunately, I don't think this will take long.

Thanks,

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 4:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (202) 213-8219

(b)(6)

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From:

(b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To:

(b)(6)

(b)(5)

(b)(6)
Subject: RE: EXT (b)(6)

Thanks, (b)(6) Can you share with Jackson and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)
Subject: RE: EXT (b)(6)

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detail, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT (b)(6)

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: (b)(6)

(b)(6)

Subject: EXT (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (b)(6)

(b)(6) and (b)(6)

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN: (b)(6)

C-LAN (b)(6)

From:

(b)(6)

Sent:

8/30/2024 2:15:49 PM

To:

CC:

(b)(6)

Subject:

RE: Loper Bright Draft Responses

(b)(6)

Do you have any info on the status of the Loper Bright responses? ESEC colleagues were asking about status (during my weekly regs call with them.)

(b)(6)

(b)(6)

(mobile)

(b)(6)

From:

(b)(6)

Sent: Tuesday, August 27, 2024 9:28 PM

To:

(b)(6)

Cc:

(b)(6)

(b)(6)

(b)(6)

Subject: RE: Loper Bright Draft Responses

Thank you, (b)(6)!

(b)(6), can you adopt the changes, and then we should share with (b)(6) & (b)(6) for their review before going back to WH Counsel.

(b)(6)

From:

(b)(6)

Sent: Tuesday, August 27, 2024 4:51 PM

To:

(b)(6)

Cc:

(b)(6)

(b)(6)

(b)(6)

Subject: RE: Loper Bright Draft Responses

(b)(6)

Thanks for putting this draft response together. Please see a suggested

(b)(5)

(b)(5)

We also note that we do not think

(b)(5)

(b)(5)

Of course, let us know if it would be helpful to discuss. If there are further drafts or significant changes, we would appreciate the chance to re-review.

Thanks,

(b)(6)

(b)(6)

Deputy Associate General Counsel
for Regulatory Affairs

U.S. Department of Homeland Security

(b)(6)

(b)(6)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

From: (b)(6)

Sent: Thursday, August 22, 2024 2:32 PM

To: (b)(6)

Cc: (b)(6)

(b)(6)

Subject: FW: Loper Bright Draft Responses

Hi (b)(6)

I know you and (b)(6) have asked periodically about the status of the responses to the various Congressional letters we have received on Loper Bright. We finally have them for review. I would like (b)(6) to also have a chance to take a look at these. Can you and Christina ensure we provide any feedback to Nelsy/Congressional Oversight by COB Tuesday? I will be on leave at that time.

I had no edits on these.

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, August 22, 2024 9:22 AM

To: (b)(6)

Cc: (b)(6)

Subject: FW: Loper Bright Draft Responses

Good Morning (b)(6)

Please see the two draft responses relating to Loper Bright with the corresponding letters from Congress. The response to Green and Jordan will have identical language to the response to Graves but the response to the Post Chevron Group uses slightly different language.

Let me know if you have any questions. Thanks!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, August 19, 2024 2:53 PM

To: (b)(6)

Subject: RE: Loper Bright Letters

I'm not sure whether this letter will be coming from OGC or OLA, but in the case that it's OGC, here is a version.

From: (b)(6)

Sent: Monday, August 19, 2024 2:50 PM

To: (b)(6)

Subject: RE: Loper Bright Letters

Hey (b)(6)

Do you have template letters I can use for like the header and signature portion?

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Friday, August 9, 2024 2:23 PM

To: (b)(6)

Subject: FW: Loper Bright Letters

"Near" final draft from OMB

From: (b)(6)

Sent: Friday, August 9, 2024 2:00 PM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Letters

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

I am attaching OMB's near-final draft, which should be helpful. Happy to discuss if there are additional questions.

(b)(6)

Office of the White House Counsel

(b)(6)

From: (b)(6)

Sent: Friday, August 9, 2024 1:58 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Letters

(b)(6)

Should we be anticipating any additional guidance for the Department's response to these letter?

Thanks,

(b)(6)

Senior Oversight Counsel

Office of the General Counsel

U.S. Department of Homeland Security

(b)(6)

(b)(6) cell)

From: (b)(6)
Sent: 9/10/2024 1:29:58 AM
To: (b)(6)
Subject: FW: OLA-24-01896 NEW ASSIGNMENT: COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo

(b)(6)

Director
Office of Legislative Affairs
Department of Homeland Security

(b)(6)

From: (b)(6)
Sent: Sunday, September 8, 2024 12:27 PM
To: (b)(6)
Subject: FW: OLA-24-01896 NEW ASSIGNMENT: COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo
Importance: Low

(b)(6)

Director
Office of Legislative Affairs
Department of Homeland Security

(b)(6)

From: (b)(6)
Sent: Thursday, September 5, 2024 10:40 AM
To: (b)(6)
Subject: FW: OLA-24-01896 NEW ASSIGNMENT: COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo
Importance: Low

(b)(6)

Director
Office of Legislative Affairs
Department of Homeland Security

(b)(6)

From: (b)(6)
Sent: Wednesday, September 4, 2024 9:56 AM
To: (b)(6)
Subject: FW: OLA-24-01896 NEW ASSIGNMENT: COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo
Importance: Low

(b)(6)

Director
Office of Legislative Affairs
Department of Homeland Security

(b)(6)

From: DoNotReply-CRM (b)(6)

Sent: Tuesday, September 3, 2024 5:34 PM

To: OLA HQ (b)(6)

Subject: OLA-24-01896 NEW ASSIGNMENT: COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo

Importance: Low



OLA CATT System Generated Alert

Hello HQ,

This is to inform you that you have been given an assignment to REVIEW AND CLEAR/COMMENT for Work Package OLA-24-01896, which is due by 9/10/2024 5:00:00 PM (Eastern Time).

IQ Link (if any):

A full list of assignees include: @OV; @HQ; @OCC;

The instructions for the Assignment are:

Summary: Writes regarding Loper Bright v. Raimondo.

- To view and complete your Assignment in CATT, [click here](#)
- To view the provided documents for this Assignment in SharePoint, [click here](#)

PLEASE DO NOT REPLY TO THIS EMAIL

Thank you,

(b)(6)

OLA ExecSec

To learn more about how to complete this assignment in CATT, ">[click here](#)

From: (b)(6)
Sent: 7/10/2024 12:59:57 PM
To: Congress to DHS (b)(6)
(b)(6)
(b)(6)
Subject: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision
Attachments: 2024-07-10; FINAL DHS Loper Bright Letter.pdf; FINAL Attachment A - 118th TI Document Response Instructions[1][1].pdf

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Please find attached a letter addressed to Secretary Mayorkas from Chairman Graves and Chairman Comer and instructions for responding.

Thanks.

(b)(6)

(b)(6)
Republican General Counsel
Committee on Transportation & Infrastructure
U.S. House of Representatives
2165 Rayburn Building
Washington, DC 20515

From: Bastian, Collin (b)(6)
Sent: 7/10/2024 1:18:06 PM
To: Congress to DHS (b)(6)

(b)(6)

CC: (b)(6) (b)(6)
Subject: Letter of Correspondence
Attachments: 2024-07-10 Green Comer to Mayorkas (DHS) re Loper Bright v. Raimondo.pdf; DOCUMENT PRODUCTION INSTRUCTIONS.pdf

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Hello:

Please find attached a letter of correspondence to Secretary Mayorkas. To provide the most efficient processing of responses, please send all correspondence to our mailbox (b)(6). Should you have any questions, please contact (b)(6) Member Services Coordinator, at (b)(6).

Sincerely,

(b)(6)
Member Services Coordinator
House Committee on Homeland Security
Chairman Mark E. Green, MD (R-TN)
U.S. House of Representatives
176 Ford House Office Building
Phone: (b)(6)
Mail: (b)(6)

From:

Sent:

To:

CC:

(b)(6)

Subject: 24-01896 - HQ - COMPONENT CLEARANCE: Rep. Mark E. Green re: Loper Bright v. Raimondo

(b)(6)

You know I would never name, names, but two exceptionally talented, intelligent, and dedicated HQ team members recommended (b)(5) OGC. Thanks (b)(6) and (b)(6) Oops.

Recommend (b)(5) OGC.



E2

https://ola-catt.crm9.dynamics.com/main.aspx?appid=fbf1bef5-bbd6-4aa3-b2d7-58c101b3622e&forceUCI=1&newWindow=true&pagetype=entityrecord&etn=catt_assignment&id=d1c13b58-3b6a-cf11-a671-001dd8097cca&lid=1725456263471

From: (b)(6)
Sent: 9/4/2024 7:26:27 AM
To: (b)(6)
Subject: RE: [FOR COS REVIEW] [OGC draft] Loper Bright v. Raimondo Decision (EXT-2024-03477-PLCY) (EXT-2024-03446-PLCY) (EXT-2024-03433-PLCY) (EXT-2024-03431-PLCY)
Flag: Follow up
(b)(5)

(b)(6)
Acting Deputy Chief of Staff
Office of Policy | U.S. Department of Homeland Security
(b)(6)

From: (b)(6)
Sent: Wednesday, September 4, 2024 11:10 AM
To: (b)(6)
Cc: (b)(6)
Subject: [FOR COS REVIEW] [OGC draft] Loper Bright v. Raimondo Decision (EXT-2024-03477-PLCY) (EXT-2024-03446-PLCY) (EXT-2024-03433-PLCY) (EXT-2024-03431-PLCY)
(b)(6)

This is a group tasking clearance. I had 4 tasking for the same thing come in at about the same time from OGC.
TES (b)(5) Due back in STORM 9/12 by 5pm.
TES (b)(6) 9/3- TES/SCRC (b)(5)
responses in this folder on the Loper Bright v. Raimondo decision

- OGC draft Loper Bright v. Raimondo Decision
- Draft DHS response to (b)(6) 24-03433 9.3.2024.docx
 - Draft DHS response to (b)(6) 24-03446 9.3.2024.docx
 - Draft DHS response to (b)(6) 24-03431 9.3.2024.docx
 - Draft DHS response to Post Chevron Group 24-3477 9.3.2024.docx

Kind Regards,
(b)(6)
Correspondence Analyst
Executive Secretariat | PLCY
U.S. Department of Homeland Security
TEAMS: (b)(6)
Cell: (b)(6)
(b)(6)



From:

(b)(6)

Sent:

10/11/2024 2:31:19 PM

To:

(b)(6)

CC:

Subject:

RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback. We'd appreciate a copy of the final letter, whenever it is sent.

For #1: Recommend

(b)(5)

For #2: Recommend we

(b)(5)

(b)(5)

From:

(b)(6)

Sent: Friday, October 4, 2024 2:41 PM

To:

(b)(6)

Cc:

(b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From:

(b)(6)

Sent: Friday, October 4, 2024 8:59 AM

To:

(b)(6)

Cc:

(b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Good Morning

(b)(6)

Following up on this email.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m)

(b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(5)

DHS-001-13155-000048

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

<BRIANNA.SMITH@hq.dhs.gov>

Subject: RE: EXT (b)(6)

Thanks, (b)(6) Can you share with Jackson and flag the comment in the USCG version for him?

Jon

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

(b)(6)

Subject: RE: EXT (b)(6)

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
(b)(6)
Subject: EXT (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) (she/her)
Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security
Cell (b)(6)
A-LAN (b)(6)
C-LAN (b)(6)

.....

.....

Sent: 10/11/2024 1:40:27 PM
To: (b)(6)
CC: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks

From: (b)(6)
Sent: Friday, October 4, 2024 8:59 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 4:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) **(b)(6)**

(b)(6)

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From: **(b)(6)**

Sent: Monday, September 30, 2024 4:01 PM

To: **(b)(6)**

(b)(5)

DHS-001-13155-000053

(b)(6)
Subject: RE: EXT- (b)(6)

Thanks, (b)(6) Can you share with Jackson and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM
To: (b)(6)
(b)(6)
Subject: RE: EX (b)(6)

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
<NELSY.DELANUEZ@hq.dhs.gov>
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: (b)(6)

(b)(6)

Subject: EXT (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (b)(6) (b)(6)

(b)(6) and (b)(6)

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell (b)(6)

A-LAN: (b)(6)

C-LAN:

From: (b)(6)
Sent: 7/16/2024 9:21:01 PM
To: (b)(6)
Subject: RE: Chevron Letters
Attachments: 24-03431 (b)(6) 10.24.pdf; 24-03433 (b)(6) 7.10.24.pdf; 24-03446 (b)(6) 7.11.24.pdf; 24-03477 (b)(6) 7.12.24.pdf; RE: EXTERNAL – Sam Graves re: Coper Bright Enterprises v. Raimondo - EXT-2024-03431 - OGC Lead Component Draft Response to Sam Graves regarding Due: 7/24/2024 8:00 AM EST; Federal Emergency Management Agency.pdf

Thanks for update.

(b)(5)

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Tuesday, July 16, 2024 5:08 PM
To: (b)(6)
Subject: RE: Chevron Letters

Attorney – Client Privileged / Deliberative

Hi (b)(6)

Will cc you on my message to OIA

(b)(5)
(b)(5)

Do you know whether these letters have all been assigned to OGC/Congressional Oversight in CATT?

(b)(6)

From: (b)(6)

Sent: Tuesday, July 16, 2024 5:05 PM

To: (b)(6)

Subject: RE: Chevron Letters

Good Afternoon (b)(6)

Should we do a quick summary of the call to pass it along to others? What do you think next steps should be?

(b)(6)

Attorney Advisor

Detail, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Thursday, July 11, 2024 11:45 AM

To: (b)(6)

Cc: (b)(6)

Subject: Chevron Letters

(b)(6)

Here are the letters I mentioned on the call having to do with the overturning of *Chevron*. I'm sure a lot of this will be discussed on the interagency call next week, but to the extent there are any documents that we consider producing, you can also assist with their collection, review, and redaction.

Thanks!

(b)(6)

Senior Oversight Counsel

Office of the General Counsel

U.S. Department of Homeland Security

(b)(6)

(b)(6)

(cell)

From:

Sent:

To:

(b)(6)

Subject:

EXT- (b)(6)

Attachments: Draft DHS response to Jordan 24-03433 9.3.2024 (OLA Edits).docx; Draft DHS response to Graves 24-03431 9.3.2024 (OLA Edits).docx; Draft DHS response to Green 24-03446 9.3.2024 (OLA Edits).docx; Draft DHS response to Post Chevron Group 24-3477 9.3.2024_USCG.docx; Draft DHS response to Post Chevron Group 24-3477 9.3.2024 (OLA Edits).docx

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6)

(she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN:

(b)(6)

C-LAN:

Assistant Secretary for Legislative Affairs

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

The Honorable Eric S. Schmitt
United States Senate
Washington, DC 20510

Dear Senator Schmitt:

(b)(5)

(b)(5)

(b)(5)

Zephrañie Buetow
Assistant Secretary for Legislative Affairs

CC: Senator Kevin Cramer
Senator John Cornyn
Senator Rick Scott
Senator Cynthia M. Lummis
Senator Joni K. Ernst
Senator Ted Cruz
Senator Michael S. Lee
Senator Ted Budd
Senator Tommy Tuberville
Senator Thom Tillis
Senator Pete Ricketts
Senator Mike Braun
Senator Roger Marshall
Senator Bill Hagerty
Senator Jon Thune
Senator Marsha Blackburn
Senator Rand Paul
Senator Ron Johnson

From:

(b)(6)

Sent:

7/11/2024 3:17:15 PM

To:

(b)(6)

Subject:

Fwd: FYI - Chevron decision CHS to DHS

Attachments: ALL_HOUSE_Chevron_Letters(DHS-PDF-Page-53).pdf

More

(b)(6)

Chief of Staff

Office of the General Counsel

Department of Homeland Security

(b)(6)

From:

(b)(6)

Sent: Thursday, July 11, 2024 10:28:35 AM

To:

(b)(6)

Cc:

(b)(6)

Subject: RE: FYI - Chevron decision CHS to DHS

COS

(b)(6)

Thanks.

Also, I went and got the PDF that has all of the Chevron letters to every federal agency from all the House Chairmen (see attached). DHS starts on PDF Page #53, which is the same as the prior document I sent to you.

Clearly a government wide effort from the House.

Safe travel.

v/r

(b)(6)

Director, Office of Legislative Affairs

U.S. Department of Homeland Security

Cell:

(b)(6)

(b)(6)

With honor and integrity, we will safeguard the American people, our homeland, and our values.

From:

(b)(6)

Sent: Thursday, July 11, 2024 10:23 AM

To:

(b)(6)

Subject: Re: FYI - Chevron decision CHS to DHS

Thanks (b)(6) Will pass this on

(b)(6)

Chief of Staff

Office of the General Counsel

Department of Homeland Security

(b)(6)

From: (b)(6)
Sent: Thursday, July 11, 2024 9:52:24 AM
To: (b)(6)
Cc: (b)(6)
Subject: FYI - Chevron decision CHS to DHS

COS (b)(6)

I'm not sure if this has made it to you yet, but I know this will be an OGC matter. Below the signature block is a copy and past of the press release, and attached is the letter from the Chairman to S1 regarding the Chevron decision.

This all came out yesterday while I was on the Hill, and I'm still digging out. So I apologize if this redundant to what you may know, have, or already be aware of. I keep my eyes open for what I know are OGC's equities and would rather overshare than not, but still try to be judicious on what I bug you with. :-)

Respectfully,

(b)(6)
Director, Office of Legislative Affairs
U.S. Department of Homeland Security
Cell: (b)(6)
(b)(6)

With honor and integrity, we will safeguard the American people, our homeland, and our values.

<https://homeland.house.gov/2024/07/10/chairmen-green-comer-demand-answers-on-dhs-administrative-overreach-following-scotus-overturning-chevron/>

CHAIRMEN GREEN, COMER DEMAND ANSWERS ON DHS ADMINISTRATIVE OVERREACH FOLLOWING SCOTUS OVERTURNING CHEVRON

July 10, 2024

WASHINGTON, D.C. — Today, House Committee on Homeland Security Chairman Mark E. Green, MD (R-TN) and Committee on Oversight and Accountability Chairman James Comer (R-KY) sent a letter to now-impeached Department of Homeland Security (DHS) Secretary Alejandro Mayorkas, reminding him of the limitations on the department's authority following the Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo*, which overruled *Chevron U.S.A., Inc v Natural Resources Defense Council, Inc.* (1984). This landmark decision effectively prevents unaccountable, unelected executive branch bureaucrats from assuming undue authority in administering the laws passed by Congress—a stark change from the administrative overreach of the past 40 years.

Now, months after the impeachment of Secretary Mayorkas for his refusal to comply with the clear text of the laws passed by Congress, let alone acknowledge congressional lawmaking authority, the Chairmen will continue investigating the Biden administration to ensure its actions, statutes, and/or practices do not encroach upon Congress' Article I authorities. Read the full letter [here](#) and excerpts below. Read Majority Leader Steve Scalise's press release and letters from other committee chairs [here](#).

In the letter, the Chairmen state, "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. 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 Chairmen continue, "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. 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." 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."

The Chairmen conclude, "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."

###

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.¹ 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.² 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'

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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 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:

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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Secretary Vilsack

July 9, 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.

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,

(b)(6)

Glenn "GT" Thompson
Chairman
House Committee on Agriculture

(b)(6)

Virginia Foxx
Chairwoman
House Committee on Education and
and the Workforce

(b)(6)

James Comer
Chairman
House Committee on Oversight
and Accountability

MIKE ROGERS, ALABAMA, CHAIRMAN
JOE WILSON, SOUTH CAROLINA
MICHAEL R. TURNER, OHIO
DOUG LAMBERT, COLORADO
ROBERT J. WITTMAN, VIRGINIA
AUSTIN SCOTT, GEORGIA
SAM GRAVES, MISSOURI
ELISE M. STEFANIK, NEW YORK
SCOTT DESJARDIS, TENNESSEE
TERRY KELLY, MICHIGAN
MIKE GALLAGHER, WISCONSIN
MATT GAETZ, FLORIDA
DON BACON, NEBRASKA
JIM BANKS, INDIANA
JACK BERGMAN, MICHIGAN
MICHAEL WALTZ, FLORIDA
LISA C. MCCLAIN, MICHIGAN
RONNY JACKSON, TEXAS
PAT FALLON, TEXAS
CARLOS A. GIMENEZ, FLORIDA
NANCY MACE, SOUTH CAROLINA
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NICK LALOTA, NEW YORK
JAMES C. MOYLAN, GUAM
MARK ALFORD, MISSOURI
CORY MILLS, FLORIDA
RICHARD MCCORMICK, GEORGIA
LANCE GODDEN, TEXAS

CHRIS WISOM, STAFF DIRECTOR

COMMITTEE ON ARMED SERVICES

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.¹ 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.² 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.

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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, 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.
 - b. A list of all final Department 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 Department rulemakings in which the Department is relying on a Department 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 Department adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and Department statutory interpretation concerned:
 - a. A list of all pending judicial challenges to final Department adjudications that may be impacted by the Court's *Loper Bright* decision.
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3. Please provide the following concerning enforcement actions brought by the Department 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 a Department 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 Department interpretive rules proposed or issued since January 20, 2021, identifying in each relevant listing the statutory authority the rule interprets and the Department statutory interpretation set forth in the rule:
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 - i. an annual effect on the economy of \$100,000,000 or more;
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5. Please provide the following concerning judicial decisions in cases to which the Department has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the Department interpreted and the Department 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 Department's interpretation of a statute.

The Honorable Lloyd J. Austin III

July 9, 2024

Page 4 of 4

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,

(b)(6)

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 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.¹ 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.² 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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Acting Secretary Su

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,

(b)(6)

Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

(b)(6)

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.¹ 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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Sincerely,

(b)(6)

Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

(b)(6)

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.¹ 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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Chair Burrows

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,

(b)(6)

Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

(b)(6)

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.¹ 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.² 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:

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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Chairman McFerran

July 10, 2024

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Chairwoman
House Committee on Education
and the Workforce

(b)(6)

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:

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Secretary Cardona

July 10, 2024

Page 4 of 4

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Your prompt attention to this request is appreciated.

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Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

(b)(6)

James Comer
Chairman
House Committee on Oversight
and Accountability

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.¹ 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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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:

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

Sincerely,

(b)(6)

Patrick T. McHenry
Chairman
House Financial Services Committee

(b)(6)

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 17th 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.¹ 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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Chairman
House Financial Services Committee

(b)(6)

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
20th 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.¹ 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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 - 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.

(b)(6)

Patrick T. McHenry
Chairman
House Financial Services Committee

Sincerely,

(b)(6)

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

Dear Chairman Harper,

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.¹ 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.² 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 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.
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- 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 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.

(b)(6)

Patrick T. McHenry
Chairman
House Financial Services Committee

Sincerely,

(b)(6)

James Comer
Chairman
House Oversight Committee

Congress of the United States
Washington, DC 20515

July 10, 2024

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

Dear Acting Director Hsu,

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.¹ 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.² 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

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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:
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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.

(b)(6)

Patrick T. McHenry
Chairman
House Financial Services Committee

Sincerely,

(b)(6)

James Comer
Chairman
House Oversight Committee

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.¹ 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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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 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:

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

(b)(6)

Patrick T. McHenry
Chairman
House Financial Services Committee

Sincerely,

(b)(6)

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.¹ 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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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:

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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.

(b)(6)

Patrick T. McHenry
Chairman
House Financial Services Committee

Sincerely,

(b)(6)

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.¹ 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.² 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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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.
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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.

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

Sincerely,

(b)(6)

MICHAEL T. McCAUL
Chairman
Committee on Foreign Affairs

(b)(6)

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.¹ 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.² 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.”³ This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, we are

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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>.

³ *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.

Thank you for your prompt attention to this important matter.

Sincerely,

(b)(6)

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

(b)(6)

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*,¹ which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*² 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.³ 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.⁴ 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 interprets the laws, and the executive branch enforces the laws.⁵ 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).⁶ As such, and in light of the Court's *Loper Bright* decision, the Committee must

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

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

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

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

⁵ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

⁶ The Separation of Powers Restoration Act of 2023, H.R. 288, 118th 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."⁷ If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,

(b)(6)

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

⁷ 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*,¹ which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*² 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.³ 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.⁴ 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 interprets the laws, and the executive branch enforces the laws.⁵ 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).⁶ As such, and in light of the Court's *Loper Bright* decision, the Committee must

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

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⁶ The Separation of Powers Restoration Act of 2023, H.R. 288, 118th 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*;
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 - 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;
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 - 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."⁷ If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,

(b)(6)

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

⁷ Rules of the U.S. House of Representatives, R. X (2023).

ONE HUNDRED EIGHTEENTH CONGRESS

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COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

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(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*,¹ which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*² 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.³ 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.⁴ 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 interprets the laws, and the executive branch enforces the laws.⁵ 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).⁶ As such, and in light of the Court's *Loper Bright* decision, the Committee must

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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
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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:
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 - 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:
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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:
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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."⁷ If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,

(b)(6)

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

⁷ Rules of the U.S. House of Representatives, R. X (2023).

ONE HUNDRED EIGHTEENTH CONGRESS

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COMMITTEE ON THE JUDICIARY

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(202) 225-6906
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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*,¹ which overruled the Court's past decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*² 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.³ 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.

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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."⁷ If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,

(b)(6)

JIM JORDAN
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

⁷ 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.¹ 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.² 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.

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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.
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 - 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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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:
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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 with any questions. We look forward to your cooperation.

Sincerely,

(b)(6)

Bruce Westerman
Chairman
Committee on Natural Resources

(b)(6)

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.¹ 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.² 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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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:

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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 with any questions. We look forward to your cooperation.

Sincerely,

(b)(6)

Bruce Westerman
Chairman
Committee on Natural Resources

(b)(6)

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.¹ 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 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 with any questions. We look forward to your cooperation.

Sincerely,

(b)(6)

Bruce Westerman
Chairman
Committee on Natural Resources

(b)(6)

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.¹ 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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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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³ 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,

(b)(6)

Bruce Westerman
Chairman
Committee on Natural Resources

(b)(6)

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.¹ 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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² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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/>.

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 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:

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*.
 - 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 IHS. 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 with any questions. We look forward to your cooperation.

Sincerely,

(b)(6)

Bruce Westerman
Chairman
Committee on Natural Resources

(b)(6)

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.¹ 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.² 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 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:
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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.
 - 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*.
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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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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 with any questions. We look forward to your cooperation.

Sincerely,

(b)(6)

Bruce Westerman
Chairman
Committee on Natural Resources

(b)(6)

G.T. Thompson
Chairman
Committee on Agriculture

(b)(6)

James Comer
Chairman
Committee on Oversight and Accountability

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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Majority (202) 225-5074
Minority (202) 225-5061

<https://oversight.house.gov>

July 10, 2024

Christine J. Harada
Chair
Federal Acquisition Regulatory Council
725 17th 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.¹ 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.² 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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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

- 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,

(b)(6)

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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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.¹ 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.² 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.
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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:
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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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 - i. an annual effect on the economy of \$100,000,000 or more;
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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,

Hon. Robin Carnahan

July 10, 2024

Page 4 of 4

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Sincerely,

(b)(6)

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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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.¹ 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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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.
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 - 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:
 - 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:
 - 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 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 "Federal civil service," "[g]overnment management and accounting measures generally," and the "[o]verall economy, efficiency, and management of government operations and activities" under House Rule X. Thank you for your attention to this important matter.

Sincerely,

(b)(6)

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.¹ 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.² 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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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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- 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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The Honorable Isabella Casillas Guzman

July 10, 2024

Page 4 of 4

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,

(b)(6)

Roger Williams
Chairman
Committee on Small Business

(b)(6)

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.¹ 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.² 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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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

Page 4 of 4

result of this request will be deemed Congressional documents of the Committees. An attachment contains additional instructions for responding to this request. When producing documents to the Committees, please deliver production sets to the Transportation and Infrastructure Majority Staff in Room 2165 of the Rayburn House Office Building and the Transportation and Infrastructure Minority Staff in Room 2164 of the Rayburn House Office Building.

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. Thank you for your prompt attention to this matter.

Sincerely,

(b)(6)

Sam Graves
Chairman
Committee on Transportation
and Infrastructure

(b)(6)

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.¹ 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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cc: The Honorable Rick Larsen, Ranking Member
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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.¹ 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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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.

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

Administrator Regan

July 10, 2024

Page 4 of 4

result of this request will be deemed Congressional documents of the Committees. An attachment contains additional instructions for responding to this request. When producing documents to the Committees, please deliver production sets to the Transportation and Infrastructure Majority Staff in Room 2165 of the Rayburn House Office Building and the Transportation and Infrastructure Minority Staff in Room 2164 of the Rayburn House Office Building.

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. Thank you for your prompt attention to this matter.

Sincerely,

(b)(6)

Sam Graves
Chairman
Committee on Transportation
and Infrastructure

(b)(6)

 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 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.¹ 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.² Many of these rules were 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,

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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/>

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,

(b)(6)

MIKE BOST
Chairman
Committee on Veterans Affairs

(b)(6)

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.¹ 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.² 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:
 - 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,

(b)(6)

Jason Smith
Chairman
Committee on Ways and Means

(b)(6)

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.¹ 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.² 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,

(b)(6)

Jason Smith
Chairman
Committee on Ways and Means

(b)(6)

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.¹ 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.² 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:

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Sincerely,

(b)(6)

Jason Smith
Chairman
Committee on Ways and Means

(b)(6)

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.¹ 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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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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 - 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,

(b)(6)

Jason Smith
Chairman
Committee on Ways and Means

(b)(6)

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.¹ 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.² 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

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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,

(b)(6)

Jason Smith
Chairman
Committee on Ways and Means

(b)(6)

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 17th 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.¹ 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.² 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

¹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024).

² See, e.g., *Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses: Hearing Before the H. Comm. on Small Business*, 118th 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:
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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.
 - 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*.
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- 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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 - 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,

(b)(6)

Jason Smith
Chairman
Committee on Ways and Means

(b)(6)

James Comer
Chairman
Committee on Oversight

From:

(b)(6)

Sent:

11/19/2024 6:59:17 PM

To:

(b)(6)

Subject:

RE: Loper Bright Draft Congressional Responses

Attachments:

Draft DHS response to Post Chevron Group 24-3477 10.29.24 DOJ.docx; Draft DHS response to Jordan 24-03433 910.29.24 DOJ.docx; Draft DHS response to Green 24-03446 10.29.24 DOJ.docx; Draft DHS response to Graves 24-03431 10.29.24 DOJ.docx

Flag:

Flag for follow up

Good Afternoon

(b)(6)

Please see attached.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From:

(b)(6)

Sent: Tuesday, November 19, 2024 1:31 PM

To:

(b)(6)

Cc:

(b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thank you!

(b)(6), please put together a clean copy and I'll pass along for FO clearance.

From:

(b)(6)

Sent: Tuesday, November 19, 2024 1:30 PM

To:

(b)(6)

Cc:

(b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks – this is good with me to move forward.

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DHS-001-13155-000205

From: (b)(6)
Sent: Thursday, November 14, 2024 11:41 AM
To: (b)(6)
Cc: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Hey (b)(6)

Just wanted to bump this for you. Since (b)(5) thought you should take another look before we forward to the Front Office. Their changes were (b)(5)
(b)(5)

(b)(6)

From: (b)(6)
Sent: Tuesday, October 29, 2024 4:27 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

(b)(5)

(b)(5)

Thanks for your continued patience on this matter.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:39 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

That is much more elegant than my idea. I like that.

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:27 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Alternatively, since all the letters were sent on the same day, we could just use the plural "letters" when we initially refer to the July 11, 2024 letter in the first sentence.

From: (b)(6)
Sent: Tuesday, October 15, 2024 3:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thank you (b)(5) (b)(5) if there is a legitimate concern that the Working Group will
(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:17 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

I don't think we normally put (b)(5) Attached are the letters related to the Post-Chevron Working Group response. The Schmitt letter is the one specifically addressed to DHS, while the rest are identical letters addressed specifically to component agencies in our department. (b)(5)

(b)(5)

(b)(6)
Attorney Advisor
Detail, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m) (b)(6)
(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:09 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(6) - can I see the incoming Senate letter? I'm not sure I agree

(b)(5)

(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 8:14 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Please see final edits (b)(5) let us know if you have any comments or questions for us before we send it up. As a reminder the letters for Jordan, Green and Graves are identical.

(b)(6)

Attorney Advisor
Detail, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)
Sent: Monday, October 14, 2024 9:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(6)

(b)(6), once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

(b)(6)

From: (b)(6)
Sent: Friday, October 11, 2024 10:31 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback. We'd appreciate a copy of the final letter, whenever it is sent.

For #1: Recommend that we (b)(5)

For #2: Recommend we (b)(5)

(b)(5)

From: (b)(6)
Sent: Friday, October 4, 2024 2:41 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6) This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)
Sent: Friday, October 4, 2024 8:59 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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document must be approved by the Office of the General Counsel, U.S. Department of Homeland Security. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel

(b)(5)

DHS-001-13155-000210

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

(b)(6)

Subject: RE: EXT (b)(6)

Thanks, (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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Department of Homeland Security. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6) (b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6) (b)(6)
Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (b)(6) (b)(6) (b)(6), and (b)(6).

Best,

(b)(6) (she/her)
Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security
Cell: (b)(6)
A-LAN: (b)(6)
C-LAN: (b)(6)

DHS-001-13155-000213



Homeland
Security

The Honorable Mark E. Green
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Green and Comer:

(b)(5)

(b)(5)

(b)(5)

Respectfully,

Zephranie Buetow
Assistant Secretary for Legislative Affairs

CC: The Honorable Bennie G. Thompson, Ranking Member
Committee on Homeland Security
The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

From:

(b)(6)

Sent:

9/30/2024 2:28:38 PM

To:

(b)(6)

Subject:

RE: EXT-2024-03446/03431/03433/03477

Good Morning

(b)(6)

I haven't taken a look yet. Will prioritize it today.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From:

(b)(6)

Sent: Monday, September 30, 2024 9:46 AM

To:

(b)(6)

Subject: RE: EXT

(b)(6)

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From:

(b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To:

(b)(6)

(b)(6)

Subject: EXT

(b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6)

(she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell (b)(6)

A-LAN

C-LAN

(b)(6)

From: (b)(6)
Sent: 9/30/2024 8:04:03 PM
To: (b)(6)
Subject: RE: EXT (b)(6)

Hi (b)(6)

I will go ahead and forward to (b)(6)

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 4:01 PM
To: (b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM
To: (b)(6)
Subject: RE: EXT (b)(6)

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 9:46 AM

To: (b)(6)

Subject: RE: EXT- (b)(6)

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: (b)(6)

(b)(6)

Subject: EXT- (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell (b)(6)

A-LAN: (b)(6)

C-LAN: (b)(6)

From: (b)(6)
Sent: 10/15/2024 8:03:20 PM
To: (b)(6)
CC:
Subject: RE: Loper Bright Draft Congressional Responses
Attachments: Draft DHS response to Graves 24-03431 9.3.2024 (OLA Edits) KL.docx; Draft DHS response to Green 24-03446 9.3.2024 (OLA Edits).docx; Draft DHS response to Jordan 24-03433 9.3.2024 (OLA Edits).docx; Draft DHS response to Post Chevron Group 24-3477 9.3.2024_USCG.docx

Here are the copies of the letters with final edits from (b)(6) Anyone else we are waiting for?

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, October 14, 2024 9:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(6)

(b)(6) once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

(b)(6)

From: (b)(6)
Sent: Friday, October 11, 2024 10:31 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(6) (b)(5)

Here is RLD's feedback. (b)(5)

For #1: Recommend that we (b)(5)

For #2: Recommend

(b)(5)

(b)(5)

From: (b)(6)

Sent: Friday, October 4, 2024 2:41 PM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)

Sent: Friday, October 4, 2024 8:59 AM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) **(b)(6)**

(b)(6)

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(b)(5)

DHS-001-13155-000222

From: (b)(6)
Sent: Monday, September 30, 2024 4:01 PM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks (b)(6) Can you share with (b)(5) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(5)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: (b)(6)
(b)(6)

Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN: (b)(6)
C-LAN: (b)(6)

From: (b)(6)
(b)(6)
Sent: 10/15/2024 8:14:24 PM
To: (b)(6)
CC:
Subject: RE: Loper Bright Draft Congressional Responses

Ok, will do.

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 4:14 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Can you put together clean versions and share with

(b)(5)

(b)(5)

Thanks,

(b)(6)

From: (b)(6)
Sent: Tuesday, October 15, 2024 4:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Here are the copies of the letters with final edits from (b)(6). Anyone else we are waiting for?

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, October 14, 2024 9:03 PM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(5)

(b)(6) once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

(b)(6)

From: (b)(6)

Sent: Friday, October 11, 2024 10:31 AM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback.

(b)(5)

For #1: Recommend that

(b)(5)

For #2: Recommend

(b)(5)

(b)(5)

From: (b)(6)

Sent: Friday, October 4, 2024 2:41 PM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6) This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)
Sent: Friday, October 4, 2024 8:59 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 4:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks (b)(6) Can you share with (b)(5) and flag the comment in the USCG version for him?

(b)(5)

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m.l.) (b)(6)

(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
(b)(6)
Subject: EXT- (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) (she/her)
Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security
Cell: (b)(6)
A-LAN: (b)(6)
C-LAN: (b)(6)

From: OGC Exec Sec (b)(6)
Sent: 11/20/2024 4:40:10 PM
To: (b)(6)
CC: OGC Exec Sec (b)(6)
(b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(6) – these were submitted to ESEC.

Thanks,

(b)(6)

From: (b)(6)
Sent: Wednesday, November 20, 2024 11:12 AM
To: (b)(6)
Cc: OGC Exec Sec (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Good morning,

(b)(6) here are the letters that I references are ready for Front Office review and clearance.

Thanks,

(b)(6)

From: (b)(6)
Sent: Tuesday, November 19, 2024 1:59 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6),

Please see attached.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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DHS-001-13155-000231

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From: (b)(6)
Sent: Tuesday, November 19, 2024 1:31 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thank you!

(b)(6) please put together a clean copy and I'll pass along for FO clearance.

From: (b)(6)
Sent: Tuesday, November 19, 2024 1:30 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks - (b)(5)

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From: (b)(6)
Sent: Thursday, November 14, 2024 11:41 AM
To: (b)(6)
Cc: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Hey (b)(6)

Just wanted to bump this for you. Since DOJ (b)(5), thought you should take another look before we forward to the Front Office. (b)(5) (b)(5)

(b)(5)

(b)(6)

From: (b)(6)
Sent: Tuesday, October 29, 2024 4:27 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

(b)(5) (b)(5)
(b)(5) thanks for your continued
patience on this matter.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:39 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:27 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Alternatively, since all the letters were sent on the same day, we could just use the plural "letters" when we initially refer to the July 11, 2024 letter in the first sentence.

From: (b)(6)
Sent: Tuesday, October 15, 2024 3:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thank you – I don't like the "(b)(5) If there is a legitimate concern that the Working Group will
(b)(5)

*** Warning *** Attorney/Client Privilege *** Attorney Work Product ***

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:17 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon: (b)(6)

I don't think we normally: (b)(5) Attached are the letters related to the Post-Chevron Working Group response. The Schmitt letter is the one specifically addressed to DHS, while the rest are identical letters addressed specifically to component agencies in our department. (b)(5)

(b)(5)

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m): (b)(6)

(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:09 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks: (b)(6) - can I see the incoming Senate letter? I'm not sure I agree with:

(b)(5)

(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 8:14 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning: (b)(6)

Please see final edits: (b)(5) Let us know if you have any comments or questions for us before we send it up. As a reminder the letters for Jordan, Green and Graves are identical.

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, October 14, 2024 9:03 PM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(6)

(b)(6) once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

(b)(6)

From: (b)(6)

Sent: Friday, October 11, 2024 10:31 AM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback.

(b)(5)

For #1: Recommend that we

(b)(5)

For #2: Recommend

(b)(5)

(b)(5)

From: (b)(6)

Sent: Friday, October 4, 2024 2:41 PM

To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)
Sent: Friday, October 4, 2024 8:59 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning: (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 4:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

(b)(5)

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detail, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m) **(b)(6)**

(b)(6)

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From: **(b)(6)**

Sent: Monday, September 30, 2024 4:01 PM

To: **(b)(6)**

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks, **(b)(6)**. Can you share with **(b)(6)** and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(m)

(b)(6)

(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
(b)(6)
Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN: (b)(6)

C-LAN: (b)(6)

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From: (b)(6)
Sent: 7/11/2024 1:42:04 PM
To: (b)(6)
Subject: FW: EXTERNAL – Rep. Mark E. Green re: Loper Bright v. Raimondo - EXT-2024-03446 - OGC Lead Component Draft Response to Rep. Mark E. Green regarding Due: 7/24/2024 8:00 AM EST
Attachments: 24-03446 Green 7.11.24.pdf; 24-03446 Green Document Production Instructions 7.11.24.pdf

We got a third Chevron letter! Does DHS win a prize?

From: OGC Exec Sec (b)(6)
Sent: Thursday, July 11, 2024 8:55 AM
To: OGC Congressional Oversight (b)(6)
Cc: OGC Exec Sec (b)(6)
Subject: FW: EXTERNAL – Rep. Mark E. Green re: Loper Bright v. Raimondo - EXT-2024-03446 - OGC Lead Component Draft Response to Rep. Mark E. Green regarding Due: 7/24/2024 8:00 AM EST

Good Morning,

Third letter on the similar topic we talked about yesterday.

Thanks,
(b)(6)

From: STORM Notifications (b)(6)
Sent: Thursday, July 11, 2024 8:52 AM
To: OGC Exec Sec (b)(6)
(b)(6)
Cc: ESEC-External Liaison <ESEC-ExternalLiaison@hq.dhs.gov>
Subject: EXTERNAL – Rep. Mark E. Green re: Loper Bright v. Raimondo - EXT-2024-03446 - OGC Lead Component Draft Response to Rep. Mark E. Green regarding Due: 7/24/2024 8:00 AM EST

STORM

System of Tracking, Operations, and Records Management

OGC: You are the lead Component; please clear your draft response with the Components listed on the clearance tab and any other Components that have equities prior to submitting your draft to ESEC. Clearing Components require 48 hours for clearance; you should allow time for clearance and comment reconciliation before submitting the action to ESEC by the deadline. Please note that per DHS FO direction, if clearance from PRIV, CRCL, OPE, OSA, OPA, and OSLLE are not received by the clearance due date, their silence is to be taken as concurrence.

MGMT / OLA / PLCY: OGC has the lead to prepare a draft in response to the attached incoming. Please share this incoming with your leadership. If your leadership has any comments, concerns, or issues that should be incorporated into the draft response, please share them with the drafting component within 24 hours so that the issues can be addressed prior to submitting the draft

to ESEC.

PRIV / CRCL / OSA / OPA / OPE / OSLLE: OGC has the lead to prepare a draft in response to the attached incoming. Please share this incoming with your leadership. If your leadership has any comments, concerns, or issues that should be incorporated into the draft response, please share them with the drafting component within 24 hours so that the issues can be addressed prior to submitting the draft to ESEC. Please note that per DHS FO direction, if your clearance is not provided to the lead component by the clearance due date, your silence is concurrence.

[View Record](#)

Assignment Number: EXT-2024-03446 - OGC

From:

(b)(6)

Sent:

9/30/2024 1:46:28 PM

To:

(b)(6)

(b)(6)

(b)(6)

(b)(6)

Subject:

RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From:

(b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To:

(b)(6)

(b)(6)

Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6)

(she/her)

Special Assistant to the Acting General Counsel
Office of the General Counsel

U.S. Department of Homeland Security

Cell

(b)(6)

A-LAN

(b)(6)

C-LAN

(b)(6)

From: (b)(6)
(b)(6)
Sent: 9/30/2024 8:00:45 PM
To: (b)(6)
(b)(6)
(b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks, (b)(6) Can you share with Jackson and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM
To: (b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: (b)(6)

Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) e/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell (b)(6)

A-LAN (b)(6)

C-LAN (b)(6)

From:

(b)(6)

Sent:

10/15/2024 8:13:34 PM

To:

(b)(6)

(b)(6)

CC:

(b)(6)

(b)(6)

Subject:

RE: Loper Bright Draft Congressional Responses

Can you put together clean versions and share with [REDACTED] at WH Counsel (I don't believe we've shared this letter with them yet).

Thanks,

(b)(6)

From:

(b)(6)

Sent: Tuesday, October 15, 2024 4:03 PM

To:

(b)(6)

Cc:

(b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Here are the copies of the letters with final edits from [REDACTED] Anyone else we are waiting for?

(b)(6)

Attorney Advisor

Detail, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(b)(6)

(b)(6)

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From:

(b)(6)

Sent: Monday, October 14, 2024 9:03 PM

To:

(b)(6)

Cc:

(b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks

(b)(6)

(b)(6) once you finalize the letter, I'd like to share with [REDACTED] before we share with the Front Office.

(b)(6)

From: (b)(6)
Sent: Friday, October 11, 2024 10:31 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback. (b)(5)

For #1: Recommend that we (b)(5)

For #2: Recommend we (b)(5)

(b)(5)

From: (b)(6)
Sent: Friday, October 4, 2024 2:41 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)
Sent: Friday, October 4, 2024 8:59 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)
Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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document must be approved by the Office of the General Counsel, U.S. Department of Homeland Security. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: (b)(6)
Sent: Monday, September 30, 2024 4:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)
Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel

(b)(5)

U.S. Department of Homeland Security

(b)(5)

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From: (b)(6)
Sent: Monday, September 30, 2024 4:01 PM
To: (b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks, (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM
To: (b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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Department of Homeland Security. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(5) (she/her)

Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN: (b)(6)

C-LAN: (b)(6)

.....

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.....

.....

From: (b)(6)
Sent: 11/20/2024 4:11:42 PM
To: (b)(6)
CC: OGC Exec Sec (b)(6) (b)(6) (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses
Attachments: Draft DHS response to Post Chevron Group 24-3477 10.29.24 DOJ.docx; Draft DHS response to Jordan 24-03433 910.29.24 DOJ.docx; Draft DHS response to Green 24-03446 10.29.24 DOJ.docx; Draft DHS response to Graves 24-03431 10.29.24 DOJ.docx

Good morning,

(b)(6) here are the letters that I references are ready for Front Office review and clearance.

Thanks,

(b)(6)

From: (b)(6)
Sent: Tuesday, November 19, 2024 1:59 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

Please see attached.

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)
Sent: Tuesday, November 19, 2024 1:31 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thank you!

(b)(6) please put together a clean copy and I'll pass along for FO clearance.

From: (b)(6)
Sent: Tuesday, November 19, 2024 1:30 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks – this is good with me to move forward.

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From: (b)(6)
Sent: Thursday, November 14, 2024 11:41 AM
To: (b)(6)
Cc: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses

Hey (b)(6)

Just wanted to bump this for you. Since (b)(5) thought you should take another look before we forward to the Front Office. Their changes were: (b)(5)

(b)(6)

From: (b)(6)
Sent: Tuesday, October 29, 2024 4:27 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

(b)(5)
(b)(5) Thanks for your continued patience on this matter.

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:39 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:27 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Alternatively, since all the letters were sent on the same day, we could just use the plural "letters" when we initially refer to the July 11, 2024 letter in the first sentence.

From: (b)(6)
Sent: Tuesday, October 15, 2024 3:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thank you – I don't like the (b)(5) if there is a legitimate concern that the Working Group will (b)(5)
(b)(5)

*** Warning *** Attorney/Client Privilege *** Attorney Work Product ***

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:17 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

I don't think we normally put (b)(5) Attached are the letters related to the Post-Chevron Working Group response. The Schmitt letter is the one specifically addressed to DHS, while the rest are identical letters addressed specifically to component agencies in our department. (b)(5)

(b)(5)

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:09 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(6) - can I see the incoming Senate letter? I'm not sure I agree with (b)(5)
(b)(5)

*** Warning *** Attorney/Client Privilege *** Attorney Work Product ***

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From: (b)(6)
Sent: Tuesday, October 15, 2024 8:14 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Please see final edit (b)(5) Let us know if you have any comments or questions for us before we send it up. As a reminder the letters for Jordan, Green and Graves are identical.

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, October 14, 2024 9:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks, (b)(6)

(b)(6) once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

(b)(6)

From: (b)(6)
Sent: Friday, October 11, 2024 10:31 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback.

(b)(5)

For #1: Recommend that we

(b)(5)

For #2: Recommend we

(b)(5)

(b)(5)

From: (b)(6)
Sent: Friday, October 4, 2024 2:41 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)
Sent: Friday, October 4, 2024 8:59 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks, (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(6)

I answered most of the comments (b)(5)

(b)(5)

(b)(5)

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477
(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
(b)(6)
Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) she/her)

Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security
Cell: (b)(6)
A-LAN (b)(6)
C-LA (b)(6)

Sent: 10/15/2024 8:12:18 PM
To: (b)(6)
CC: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

No. Please put together clean copies for Front Office clearance.

From: (b)(6)
Sent: Tuesday, October 15, 2024 4:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Here are the copies of the letters with final edits from (b)(6) Anyone else we are waiting for?

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, October 14, 2024 9:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks, (b)(6)

(b)(6), once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

(b)(6)

From: (b)(6)
Sent: Friday, October 11, 2024 10:31 AM
To: (b)(6) >
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback.

(b)(5)

For #1: Recommend that we

(b)(5)

For #2: Recommend we

(b)(5)

(b)(5)

From: (b)(6)

Sent: Friday, October 4, 2024 2:41 PM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)

Sent: Friday, October 4, 2024 8:59 AM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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(b)(5)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

Subject: RE: EXT (b)(6)

Thanks, (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Hi Jon,

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 9:46 AM

To: (b)(6)

DHS-001-13155-000264

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, September 26, 2024 10:31 AM

To: (b)(6)

<jackson.caton@hq.dhs.gov>; DE LA NUEZ, NELSY <NELSY.DELANUEZ@hq.dhs.gov>

Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel

Office of the General Counsel

U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN: (b)(6)

C-LAN: (b)(6)

.....

Sent: 11/14/2024 4:36:08 PM
To: (b)(6)
CC: (b)(6)
Subject: FW: Loper Bright Draft Congressional Responses
Attachments: Draft DHS response to Jordan 24-03433 910.29.24 DOJ.docx; Draft DHS response to Post Chevron Group 24-3477 10.29.24 DOJ.docx

Hey (b)(6)

Just wanted to bump this for you. Since (b)(5) thought you should take another look before we (b)(5) Their changes were just (b)(5)

From: (b)(6)
Sent: Tuesday, October 29, 2024 4:27 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

(b)(5)

(b)(6)

Attorney Advisor
Detail, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security

(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:39 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:27 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Alternatively, since all the letters were sent on the same day, we could just use the plural "letters" when we initially refer to the July 11, 2024 letter in the first sentence.

From: (b)(5)
Sent: Tuesday, October 15, 2024 3:23 PM
To: (b)(5)
Cc: (b)(5)
Subject: RE: Loper Bright Draft Congressional Responses

Thank you – I don't like the (b)(5) if there is a legitimate concern that the Working Group will
(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:17 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

I don't think we normally put (b)(5) Attached are the letters related to the Post-Chevron Working Group response. The Schmitt letter is the one specifically addressed to DHS, while the rest are identical letters addressed specifically to component agencies in our department. (b)(5)

(b)(5)

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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Department of Homeland Security. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

From: (b)(6)
Sent: Tuesday, October 15, 2024 3:09 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(6) – can I see the incoming Senate letter? I’m not sure I agree with (b)(5)
(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 8:14 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Please see final edits based on component review. Let us know if you have any comments or questions for us before we send it up. As a reminder the letters for Jordan, Green and Graves are identical.

(b)(6)
Attorney Advisor
Detail, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, October 14, 2024 9:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks, (b)(6)

(b)(6) once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

(b)(6)

From: (b)(6)
Sent: Friday, October 11, 2024 10:31 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback.

(b)(5)

For #1: Recommend that we (b)(5)

For #2: Recommend we (b)(5)

(b)(5)

From: (b)(6)
Sent: Friday, October 4, 2024 2:41 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)
Sent: Friday, October 4, 2024 8:59 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(5)

DHS-001-13155-000271

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:01 PM

To: (b)(6)

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Thanks, (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)

Sent: Monday, September 30, 2024 11:59 AM

To: (b)(6)

(b)(6)

Subject: RE: EXT-2024-03446/03431/03433/03477

Hi (b)(6)

I answered most of the comments and made additional edits based on comments. There are two versions of the post chevron. I added edits to the USCG version but there is one comment in that version that I think we need to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)

(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT-2024-03446/03431/03433/03477

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
(b)(6)
Subject: EXT-2024-03446/03431/03433/03477

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) she/her
Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security
Cell: (b)(6)
A-LAN (b)(6)
C-LAN

From:

(b)(6)

Sent:

8/27/2024 6:51:20 PM

To:

(b)(6)

CC:

Subject:

RE: Loper Bright Draft Responses

Attachments:

Draft DHS response to Post Chevron Group 24-3477 7.12.24_RLD Edits.docx

(b)(5)

Thanks,

(b)(6)

(b)(6)

Deputy Associate General Counsel
for Regulatory Affairs

U.S. Department of Homeland Security

(b)(6)

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From:

(b)(6)

Sent: Monday, August 26, 2024 2:41 PM

To:

(b)(6)

(b)(6)

Cc:

(b)(6)

Subject: RE: Loper Bright Draft Responses

(b)(5)

(b)(6)

Senior Attorney / Team Lead for Regulatory Program Development
Regulatory Affairs Law Division
Office of the General Counsel
U.S. Department of Homeland Security

Desk/Cell:

(b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, August 26, 2024 12:16 PM

To: (b)(6)

(b)(6)
Cc: (b)(6)

Subject: RE: Loper Bright Draft Responses

(b)(5)

(b)(5)

(b)(6)

From: (b)(6)

Sent: Monday, August 26, 2024 9:25 AM

To: (b)(6)

(b)(6) v>

Cc: (b)(6)

Subject: FW: Loper Bright Draft Responses

(b)(6)

(b)(5)

Thanks,

(b)(6)

(b)(6)

Deputy Associate General Counsel
for Regulatory Affairs

U.S. Department of Homeland Security

(b)(6)

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From: (b)(6)

Sent: Thursday, August 22, 2024 2:32 PM

To: (b)(6)

Cc: (b)(6)

DHS-001-13155-000276

(b)(6)

Subject: FW: Loper Bright Draft Responses

Hi (b)(6)

I know you and (b)(6) have asked periodically about the status of the responses to the various Congressional letters we have received on Loper Bright. We finally have them for review. I would like (b)(6) to also have a chance to take a look at these. Can you and (b)(6) ensure we provide any feedback to (b)(6) Congressional Oversight by COB Tuesday? I will be on leave at that time.

I had no edits on these.

Thanks,

(b)(6)

From: (b)(6)

Sent: Thursday, August 22, 2024 9:22 AM

To: (b)(6)

Cc: (b)(6)

Subject: FW: Loper Bright Draft Responses

Good Morning (b)(6)

Please see the two draft responses relating to Loper Bright with the corresponding letters from Congress. The response to Green and Jordan will have identical language to the response to Graves but the response to the Post Chevron Group uses slightly different language.

Let me know if you have any questions. Thanks!

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, August 19, 2024 2:53 PM

To: (b)(6)

Subject: RE: Loper Bright Letters

I'm not sure whether this letter will be coming from OGC or OLA, but in the case that it's OGC, here is a version.

From: (b)(6)
Sent: Monday, August 19, 2024 2:50 PM
To: (b)(6)
Subject: RE: Loper Bright Letters

Hey (b)(6)

Do you have template letters I can use for like the header and signature portion?

(b)(6)
Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Friday, August 9, 2024 2:23 PM
To: (b)(6)
Subject: FW: Loper Bright Letters

"Near" final draft from OMB

From: (b)(6)
Sent: Friday, August 9, 2024 2:00 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Letters

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

I am attaching OMB's near-final draft, which should be helpful. Happy to discuss if there are additional questions.

(b)(6)
Office of the White House Counsel
(b)(6)

From: (b)(6)
Sent: Friday, August 9, 2024 1:58 PM
To: (b)(6)
Cc: (b)(6)
Subject: Loper Bright Letters

(b)(6)

(b)(5)

Thanks,

(b)(6)

Senior Oversight Counsel
Office of the General Counsel
U.S. Department of Homeland Security

(b)(6)

(b)(6) (cell)

From: STORM Notifications (b)(6)
(b)(6)
Sent: 9/4/2024 12:44:09 PM
To: PRIV-EXEC-SEC (b)(6)
(b)(6)
CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Complete - External Correspondence - PRIV-ExecSec has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes: Per COS Sandra Taylor, PRIV

(b)(5)

Clearance Notes:

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446

Assignment Number: EXT-2024-03446-PRIV-ExecSec

From: STORM Notifications (b)(6)
(b)(6)
Sent: 9/3/2024 5:14:06 PM
To: OSA Exec Sec (b)(6)
(b)(6)
CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Complete - External Correspondence - OSA has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes: COS Heinz clears on behalf of OSA due to no equities.

Clearance Notes:

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446-OSA

From: STORM Notifications (b)(6)
(b)(6)
Sent: 9/4/2024 1:51:13 PM
To: DHS OPE ExecSec (b)(6)
(b)(6)
CC: ESEC-External Liaison [/o=ExchangeLabs/ou=Exchange Administrative Group
(b)(6)
Subject: Complete - External Correspondence - OPE has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes: OPE (b)(5)

Clearance Notes:

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446-OPE

From: STORM Notifications; (b)(6)
(b)(6)
Sent: 9/4/2024 7:51:19 PM
To: MGMTExecSec; (b)(6)
(b)(6)
CC: ESEC-External Liaison; (b)(6)
(b)(6)
Subject: Complete - External Correspondence - MGMT has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes: Per DCoS Clayton, MGMT

(b)(5)

Clearance Notes:

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446-MGMT

From: STORM Notifications (b)(6)
(b)(6)
Sent: 9/4/2024 8:04:38 PM
To: OPA Exec Sec (b)(6)

(b)(6)

CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Complete - External Correspondence - OPA has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes: OPA (b)(5)
Clearance Notes:
Counselor Actions:

[View Record](#)

DHS-001-13155-000284

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446-OPA

From: STORM Notifications: (b)(6)
(b)(6)
Sent: 9/5/2024 12:17:06 PM
To: PLCY EXEC SEC F (b)(6)

(b)(6)

CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Complete - External Correspondence - PLCY has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes: PLCY
Clearance Notes:
Counselor Actions:

(b)(5)

View Record

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446-PLCY

From: STORM Notifications: (b)(6)
(b)(6)
Sent: 9/5/2024 2:06:15 PM
To: CRCL Exec Sed (b)(6)
(b)(6)
CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Complete - External Correspondence - CRCL has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes: CRCL (b)(5)
Clearance Notes:
Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446-CRCL

From: STORM Notifications: (b)(6)
(b)(6)
Sent: 9/16/2024 3:00:02 PM
To: OLA Exec Sec: (b)(6)

(b)(6)

CC: ESEC-External Liaison: (b)(6)
(b)(6)
Subject: Complete - External Correspondence - OLA has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM	System of Tracking, Operations, and Records Management
Complete	
Assignee Notes: DAS Knott (b)(5) for OLA	(b)(5)
Clearance Notes:	
Counselor Actions:	
<u>View Record</u>	
Workpackage Number: EXT-2024-03446 Assignment Number: EXT-2024-03446-OLA	

From: STORM Notifications (b)(6)
(b)(6)
Sent: 7/11/2024 12:51:44 PM
To: OGC Exec Sec (b)(6)
(b)(6)
CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: EXTERNAL – Rep. Mark E. Green re: Loper Bright v. Raimondo - EXT-2024-03446 - OGC Lead Component Draft Response to Rep. Mark E. Green regarding Due: 7/24/2024 8:00 AM EST

STORM

System of Tracking, Operations, and Records Management

OGC: You are the lead Component; please clear your draft response with the Components listed on the clearance tab and any other Components that have equities prior to submitting your draft to ESEC. Clearing Components require 48 hours for clearance; you should allow time for clearance and comment reconciliation before submitting the action to ESEC by the deadline. Please note that per DHS FO direction, if clearance from PRIV, CRCL, OPE, OSA, OPA, and OSLLE are not received by the clearance due date, their silence is to be taken as concurrence.

MGMT / OLA / PLCY: OGC has the lead to prepare a draft in response to the attached incoming. Please share this incoming with your leadership. If your leadership has any comments, concerns, or issues that should be incorporated into the draft response, please share them with the drafting component within 24 hours so that the issues can be addressed prior to submitting the draft to ESEC.

PRIV / CRCL / OSA / OPA / OPE / OSLLE: OGC has the lead to prepare a draft in response to the attached incoming. Please share this incoming with your leadership. If your leadership has any comments, concerns, or issues that should be incorporated into the draft response, please share them with the drafting component within 24 hours so that the issues can be addressed prior to submitting the draft to ESEC. Please note that per DHS FO direction, if your clearance is not provided to the lead component by the clearance due date, your silence is concurrence.

[View Record](#)

Assignment Number: EXT-2024-03446 - OGC

From: STORM Notifications (b)(6)
(b)(6)
Sent: 11/20/2024 4:33:00 PM
To: OGC Exec Sec (b)(6)

(b)(6)

CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Complete - External Correspondence - OGC has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes:

Clearance Notes: Ready for FO review

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446 - OGC

From: STORM Notifications (b)(6)
Sent: 11/20/2024 7:11:02 PM
To: (b)(6)
CC: ESEC-External Liaison (b)(6)
Subject: (Clearance Request) External Correspondence – Rep. Mark E. Green re: Loper Bright v. Raimondo - Response to Rep. Mark E. Green regarding (/)

STORM

System of Tracking, Operations, and Records Management

Good afternoon (b)(6)

Please find attached for your review the incoming letter and draft response to Rep. Green +1 who write regarding the Loper Bright v. Raimondo decision.

This response was drafted by OGC for A/S (b)(6) signature and has been cleared by the following

Components:

- OSA/COS 9/2/24
- PRIV/COS 9/4/24
- OPE/DCOS - 9/4/24
- OPA/Naree (b)(6) - 9/4/24
- MGMT/DCO (b)(6) n - 9/4/24
- PLCY/DCO - 9/5/24
- CRCL/DC 9/5/24
- OLA/DAS 9/16/24

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446 - David Ceasar

From: STORM Notifications (b)(6)
(b)(6)
Sent: 11/20/2024 7:37:50 PM
To: DoNotReply.CRM (b)(6)
(b)(6)
CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: External Correspondence - TASK ASSIGNED FOR Rep. Mark E. Green re: Loper Bright v. Raimondo Due: 11/22/2024 2:30 PM EST

STORM

System of Tracking, Operations, and Records Management

Good afternoon Special Assistants,

Please find attached for your review the incoming letter and draft response to Rep. Green +1 who write regarding the Loper Bright v. Raimondo decision.

This response was drafted by OGC for A/S (b)(6) signature and has been cleared by the following Components:

- OSA/COS (b)(6) 9/2/24
- PRIV/COS (b)(6) 9/4/24
- OPE/DCOS (b)(6) 9/4/24
- OPA/Naree (b)(6) 9/4/24
- MGMT/DCO (b)(6) - 9/4/24
- PLCY/DCOS (b)(6) 9/5/24
- CRCL/DO (b)(6) 9/5/24
- OLA/DAS (b)(6) 9/16/24
- FOIA (b)(6) Bypassed - 11/20/24

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446 - S1 Special Assistants

From: STORM Notifications (b)(6)
(b)(6)
Sent: 11/20/2024 7:36:29 PM
To: (b)(6)
CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Cancelled - External Correspondence (b)(6) as marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Cancelled

STORM

System of Tracking, Operations, and Records Management

Cancelled

Assignee Notes: Canceling per (b)(6)

Clearance Notes: Canceling per (b)(6)

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446

Assignment Number: EXT-2024-03446 (b)(5)

From: STORM Notifications (b)(6)
Sent: 7/11/2024 12:51:53 PM
To: OLA Exec Sec (b)(6)

CC: ESEC-External Liaison (b)(6)
Subject: EXTERNAL – Rep. Mark E. Green re: Loper Bright v. Raimondo - EXT-2024-03446 - OLA Response regarding Due: 7/15/2024 9:00 AM EST

(b)(6)

STORM	System of Tracking, Operations, and Records Management
OLA please transmit an interim letter for this congressional correspondence as soon as possible and provide transmittal confirmation in STORM.	
View Record	
Assignment Number: EXT-2024-03446 - OLA	

From: STORM Notifications (b)(6)
(b)(6)
Sent: 12/9/2024 9:06:05 PM
To: DoNotReply-CRM (b)(6)
(b)(6)
CC: FSEC External Liaison (b)(6)
(b)(6)
Subject: Cancelled - External Correspondence - S1 Special Assistants has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Cancelled

STORM

System of Tracking, Operations, and Records Management

Cancelled

Assignee Notes: Cancelling per FO on 12/9/24

Clearance Notes: Reassign to (b)(6)

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446

Assignment Number: EXT-2024-03446 - S1 Special Assistants

From: STORM Notifications (b)(6)
(b)(6)
Sent: 12/9/2024 10:00:59 PM
To: (b)(6)
CC: ESEC-External Liaison (b)(6)
(b)(6)
Subject: Complete - External Correspondence - TCO/Counter Fentanyl Team has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes:

Clearance Notes: (b)(5)

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446

Assignment Number: EXT-2024-03446 - TCO/Counter Fentanyl Team

From: STORM Notifications (b)(6)
(b)(6)
Sent: 12/9/2024 9:07:05 PM
To: (b)(6)
CC: ESEC-External Liaison (b)(6)
Subject: (Clearance Request) External Correspondence – Rep. Mark E. Green re: Loper Bright v. Raimondo - Response to Rep. Mark E. Green regarding (/)

STORM

System of Tracking, Operations, and Records Management

Good afternoon (b)(6)

Please find attached for your review the incoming letter and draft response to Rep. Green +1 who write regarding the Loper Bright v. Raimondo decision.

This response was drafted by OGC for A/S Buetow's signature and has been cleared by the following

Components:

- OSA/COS (b)(6) 9/2/24
- PRIV/COS (b)(6) 9/4/24
- OPE/DCOS (b)(6) 9/4/24
- OPA/Naree (b)(6) 9/4/24
- MGMT/DCOS (b)(6) 9/4/24
- PLCY/DCOS (b)(6) 9/5/24
- CRCL/DO (b)(6) 9/5/24
- OLA/DAS (b)(6) 9/16/24
- FO/D (b)(6) bypassed - 11/20/24

[View Record](#)

Workpackage Number: EXT-2024-03446

Assignment Number: EXT-2024-03446 - TCO/Counter Fentanyl Team

From: (b)(6)
Sent: 10/15/2024 7:27:27 PM
To: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Alternatively, since all the letters were sent on the same day, we could just use the plural "letters" when we initially refer to the July 11, 2024 letter in the first sentence.

From: (b)(6)
Sent: Tuesday, October 15, 2024 3:23 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thank you – I don't like the (b)(5) If there is a legitimate concern that the Working Group will
(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:17 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

I don't think we normally put (b)(5) Attached are the letters related to the Post-Chevron Working Group response. The Schmitt letter is the one specifically addressed to DHS, while the rest are identical letters addressed specifically to component agencies in our department. (b)(5)
(b)(5)

(b)(6)
Attorney Advisor
Detailer, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 3:09 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks (b)(6) can I see the incoming Senate letter? I'm not sure I agree with (b)(5)
(b)(5)

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From: (b)(6)
Sent: Tuesday, October 15, 2024 8:14 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Please see final edits based on component review. Let us know if you have any comments or questions for us before we send it up. As a reminder the letters for Jordan, Green and Graves are identical.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, October 14, 2024 9:03 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Loper Bright Draft Congressional Responses

Thanks, (b)(6)

(b)(6) once you finalize the letter, I'd like to share with (b)(6) before we share with the Front Office.

DHS-001-13155-000299

(b)(6)

From: (b)(6)

Sent: Friday, October 11, 2024 10:31 AM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

(b)(5)

Here is RLD's feedback.

(b)(5)

For #1: Recommend that

(b)(5)

For #2: Recommend we

(b)(5)

(b)(5)

From: (b)(6)

Sent: Friday, October 4, 2024 2:41 PM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Thanks for checking in on this (b)(6). This slipped with me earlier this week. I put this in circulation with the team this morning.

From: (b)(6)

Sent: Friday, October 4, 2024 8:59 AM

To: (b)(6)

Cc: (b)(6)

Subject: RE: Loper Bright Draft Congressional Responses

Good Morning (b)(6)

Following up on this email.

(b)(6)

Attorney Advisor

Detailer, Congressional Oversight

Office of the General Counsel

U.S. Department of Homeland Security

(m) (b)(6)

(b)(6)

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From: (b)(6)

Sent: Monday, September 30, 2024 4:23 PM

To: (b)(6)

Cc: (b)(6)

Subject: Loper Bright Draft Congressional Responses

Good Afternoon (b)(6)

We just got back comments from DHS components on our draft letters to congress relating to Loper Bright. Two comments from USCG we felt should be brought to your team's attention as it deals with the interpretation of the Supreme Court case.

(b)(5)

Your team's opinions and or edits would be greatly appreciated. Thank you!

(b)(6)

Attorney Advisor

(b)(5)

DHS-001-13155-000301

Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 4:01 PM
To: (b)(6)
(b)(6)
Subject: RE: EXT (b)(6)

Thanks, (b)(6) Can you share with (b)(6) and flag the comment in the USCG version for him?

(b)(6)

From: (b)(6)
Sent: Monday, September 30, 2024 11:59 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT (b)(6)

Hi (b)(6)

I answered most of the comments (b)(5)
(b)(5)
to take back to Reg Team made by USCG.

Let me know if you have any questions and next steps.

(b)(6)

Attorney Advisor
Detailee, Congressional Oversight
Office of the General Counsel
U.S. Department of Homeland Security
(m) (b)(6)
(b)(6)

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From: (b)(6)
Sent: Monday, September 30, 2024 9:46 AM
To: (b)(6)
(b)(6)
Subject: RE: EXT (b)(6)

(b)(6)

Have you taken a look at these edits? Are they good to adopt and clear for FO review?

Thanks,

(b)(6)

From: (b)(6)
Sent: Thursday, September 26, 2024 10:31 AM
To: (b)(6)
(b)(6)
Subject: EXT (b)(6)

Good morning, team,

Attached kindly find the edits we have received from components re Loper Bright Enterprises (Green, Jordan, Graves, and Schmitt).

Best,

(b)(6) (she/her)

Special Assistant to the Acting General Counsel
Office of the General Counsel
U.S. Department of Homeland Security

Cell: (b)(6)

A-LAN: (b)(6)

C-LAN: (b)(6)

.....

.....

.....

.....

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.....

.....

From:

STORM Notifications

(b)(6)

(b)(6)

Sent:

9/3/2024 3:19:30 PM

To:

OLA Exec Sec

(b)(6)

(b)(6)

Subject:

External Correspondence - You have been assigned a Subassignment for Rep. Mark E. Green re: Loper Bright v. Raimondo. Your assignment is due on 9/12/2024 5:00 PM EST

STORM

System of Tracking, Operations, and Records
Management

You have been assigned a sub-assignment.

Sub-Assignment Name: **EXT-2024-03446-OLA**

Work Package Name: **Rep. Mark E. Green re: Loper Bright v. Raimondo**

Work Package Type: **External Correspondence**

Description: **Components, please provide your review/comments by September 12, 2024, by 5pm.**

Due: **9/12/2024 5:00 PM EST**

[View Record](#)

From: (b)(6)
Sent: 7/10/2024 2:43:35 PM
To: Team External CL (b)(6)
(b)(6)
Subject: FW: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision
Attachments: 2024-07-10; FINAL DHS Loper Bright Letter.pdf; FINAL Attachment A - 118th TI Document Response Instructions[1][1].pdf

OGC
OLA signature
Sig, please
*requests response by 7/24/24

Thank you!

(b)(6)

Assistant Executive Secretary
for Communications and Operations
Office of the Executive Secretary
U.S. Department of Homeland Security

(b)(6) (d) (b)(6) (c)

(b)(6)

From: (b)(6)
Sent: Wednesday, July 10, 2024 9:00 AM
To: CongressstoDHS <(b)(6)>
Subject: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Please find attached a letter addressed to Secretary Mayorkas from Chairman Graves and Chairman Comer and instructions for responding.

Thanks,

(b)(6)

(b)(6)

Republican General Counsel
Committee on Transportation & Infrastructure
U.S. House of Representatives
2165 Rayburn Building
Washington, DC 20515

From:

(b)(6)

Sent:

7/10/2024 2:47:05 PM

To:

(b)(6)

Subject:

RE: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision

Got it

From:

(b)(6)

Sent: Wednesday, July 10, 2024 10:44 AM

To: Team External CL

(b)(6)

Subject: FW: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision

OGC

OLA signature

Sig. please

*requests response by 7/24/24

Thank you!

(b)(6)

Assistant Executive Secretary
for Communications and Operations
Office of the Executive Secretary
U.S. Department of Homeland Security

(b)(6) (d) (b)(6) (c)

(b)(6)

From:

(b)(6)

Sent: Wednesday, July 10, 2024 9:00 AM

To: Congress to DHS

(b)(6)

Subject: Letter from Chairman Graves and Chairman Comer re Loper Bright v Raimondo decision

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Please find attached a letter addressed to Secretary Mayorkas from Chairman Graves and Chairman Comer and instructions for responding.

Thanks,

(b)(6)

(b)(6)

Republican General Counsel
Committee on Transportation & Infrastructure
U.S. House of Representatives

DHS-001-13155-000307

2165 Rayburn Building
Washington, DC 20515

From: (b)(6)
Sent: 11/20/2024 6:56:28 PM
To: Team External CL (b)(6)
Subject: RE: Complete - External Correspondence - OGC has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

Got it

From: STORM Notifications (b)(6)
Sent: Wednesday, November 20, 2024 11:33 AM
To: OGC Exec Sec (b)(6)
(b)(6)
Cc: ESEC-External Liaison (b)(6)
Subject: Complete - External Correspondence - OGC has marked Rep. Mark E. Green re: Loper Bright v. Raimondo as Complete

STORM

System of Tracking, Operations, and Records Management

Complete

Assignee Notes:

Clearance Notes: Ready for FO review

Counselor Actions:

[View Record](#)

Workpackage Number: EXT-2024-03446
Assignment Number: EXT-2024-03446 - OGC

From: (b)(6)
(b)(6)
Sent: 7/11/2024 11:13:06 AM
To: Team External CL (b)(6)
(b)(6)
Subject: FW: Letter of Correspondence
Attachments: 2024-07-10 Green Corner to Mayorkas (DHS) re Loper Bright v. Raimondo.pdf; DOCUMENT PRODUCTION INSTRUCTIONS.pdf

Handling

From: (b)(6)
Sent: Wednesday, July 10, 2024 3:48 PM
To: Team External CL (b)(6)
Subject: FW: Letter of Correspondence

OGC
OLA Sign
Sig, please
*requests response by 7/24/24

Thank you!

(b)(6)

Assistant Executive Secretary
for Communications and Operations
Office of the Executive Secretary
U.S. Department of Homeland Security

(b)(6)

From: (b)(6)
Sent: Wednesday, July 10, 2024 9:18 AM

To: Congress to DHS (b)(6)

(b)(6)

Cc: (b)(6)

Subject: Letter of Correspondence

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Hello:

Please find attached a letter of correspondence to Secretary Mayorkas. To provide the most efficient processing of responses, please send all correspondence to our mailbox (b)(6). Should you have any questions, please contact (b)(6) Member Services Coordinator, at (b)(6).

Sincerely,

(b)(6)

Member Services Coordinator
House Committee on Homeland Security
Chairman Mark E. Green, MD (R-TN)
U.S. House of Representatives
176 Ford House Office Building
Phone: (b)(6)
Mail: (b)(6)

From: (b)(6)
(b)(6)
Sent: 7/11/2024 2:26:30 PM
To: (b)(6)
Subject: Fwd: FYI - Chevron decision CHS to DHS
Attachments: 2024-07-10-Green-Comer-to-Mayorkas-DHS-re-Loper-Bright-v.-Raimondo.pdf

FYI.

(b)(6)
Chief of Staff
Office of the General Counsel
Department of Homeland Security
(b)(6)

From: (b)(6)
Sent: Thursday, July 11, 2024 9:53 AM
To: (b)(6)
Cc: (b)(6)
Subject: FYI - Chevron decision CHS to DHS

COS (b)(6)
I'm not sure if this has made it to you yet, but I know this will be an OGC matter. Below the signature block is a copy and past of the press release, and attached is the letter from the Chairman to S1 regarding the Chevron decision.

This all came out yesterday while I was on the Hill, and I'm still digging out. So I apologize if this redundant to what you may know, have, or already be aware of. I keep my eyes open for what I know are OGC's equities and would rather overshare than not, but still try to be judicious on what I bug you with. :-)
Respectfully,

(b)(6)
Director, Office of Legislative Affairs
U.S. Department of Homeland Security
(b)(6)

With honor and integrity, we will safeguard the American people, our homeland, and our values.

<https://homeland.house.gov/2024/07/10/chairmen-green-comer-demand-answers-on-dhs-administrative-overreach-following-scotus-overturing-chevron/>

CHAIRMEN GREEN, COMER DEMAND ANSWERS ON DHS ADMINISTRATIVE OVERREACH FOLLOWING SCOTUS OVERTURNING CHEVRON

July 10, 2024

WASHINGTON, D.C. — Today, House Committee on Homeland Security Chairman Mark E. Green, MD (R-TN) and Committee on Oversight and Accountability Chairman James Comer (R-KY) sent a letter to now-impeached Department of Homeland Security (DHS) Secretary Alejandro Mayorkas, reminding him of the limitations on the department's authority following the Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo*, which overruled *Chevron U.S.A., Inc v Natural Resources Defense Council, Inc.* (1984). This landmark decision effectively prevents unaccountable, unelected executive branch bureaucrats from assuming undue authority in administering the laws passed by Congress—a stark change from the administrative overreach of the past 40 years.

Now, months after the impeachment of Secretary Mayorkas for his refusal to comply with the clear text of the laws passed by Congress, let alone acknowledge congressional lawmaking authority, the Chairmen will continue investigating the Biden administration to ensure its actions, statutes, and/or practices do not encroach upon Congress' Article I authorities. Read the full letter [here](#) and excerpts below. Read Majority Leader Steve Scalise's press release and letters from other committee chairs [here](#).

In the letter, the Chairmen state, *"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. 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 Chairmen continue, *"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. 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." 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."

The Chairmen conclude, *"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."

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From: OGC Exec Sec (b)(6)
(b)(6)
Sent: 7/11/2024 12:54:59 PM
To: OGC Congressional Oversight (b)(6)
(b)(6)
CC: OGC Exec Sec (b)(6)
(b)(6)
(b)(6)
Subject: FW: EXTERNAL – Rep. Mark E. Green re: Loper Bright v. Raimondo - EXT-2024-03446 - OGC Lead Component Draft Response to Rep. Mark E. Green regarding Due: 7/24/2024 8:00 AM EST
Attachments: 24-03446 Green 7.11.24.pdf; 24-03446 Green Document Production Instructions 7.11.24.pdf

Good Morning,

Third letter on the similar topic we talked about yesterday.

Thanks,

(b)(6)

From: STORM Notifications (b)(6)
Sent: Thursday, July 11, 2024 8:52 AM
To: OGC Exec Sec (b)(6)
(b)(6)
(b)(6)
Cc: ESEC-External Liaison (b)(6)
Subject: EXTERNAL – Rep. Mark E. Green re: Loper Bright v. Raimondo - EXT-2024-03446 - OGC Lead Component Draft Response to Rep. Mark E. Green regarding Due: 7/24/2024 8:00 AM EST

STORM

System of Tracking, Operations, and Records Management

OGC: You are the lead Component; please clear your draft response with the Components listed on the clearance tab and any other Components that have equities prior to submitting your draft to ESEC. Clearing Components require 48 hours for clearance; you should allow time for clearance and comment reconciliation before submitting the action to ESEC by the deadline. Please note that per DHS FO direction, if clearance from PRIV, CRCL, OPE, OSA, OPA, and OSLLE are not received by the clearance due date, their silence is to be taken as concurrence.

MGMT / OLA / PLCY: OGC has the lead to prepare a draft in response to the attached incoming. Please share this incoming with your leadership. If your leadership has any comments, concerns, or issues that should be incorporated into the draft response, please share them with the drafting component within 24 hours so that the issues can be addressed prior to submitting the draft to ESEC.

PRIV / CRCL / OSA / OPA / OPE / OSLLE: OGC has the lead to prepare a draft in response to the attached incoming. Please share this incoming with your leadership. If your leadership has any

comments, concerns, or issues that should be incorporated into the draft response, please share them with the drafting component within 24 hours so that the issues can be addressed prior to submitting the draft to ESEC. Please note that per DHS FO direction, if your clearance is not provided to the lead component by the clearance due date, your silence is concurrence.

[View Record](#)

Assignment Number: EXT-2024-03446 - OGC