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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[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, 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 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.

    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.

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,

Roger Williams
Chairman
Committee on Small Business

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 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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[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/

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.

    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 any 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 that was 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.

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

Sincerely,

MICHAEL T. McCAUL
Chairman
Committee on Foreign Affairs

JAMES COMER
Chairman
Committee on Oversight and Accountabliity

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.

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[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.

    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.

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,

Bruce Westerman
Chairman
Committee on Natural Resources

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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[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 Committee is 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 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:

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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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,

Bruce Westerman
Chairman
Committee on Natural Resources

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.

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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[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 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:

1. Please provide the following concerning agency[3] 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*.

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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*.

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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:

    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 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 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.

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,

Bruce Westerman
Chairman
Committee on Natural Resources

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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[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/.

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:

    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 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,

Bruce Westerman
Chairman
Committee on Natural Resources

G.T. Thompson
Chairman
Committee on Agriculture

James Comer
Chairman
Committee on Oversight and Accountability

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'

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[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.

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        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.

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,

Glenn "GT" Thompson
Chairman
House Committee on Agriculture

Virginia Foxx
Chairwoman
House Committee on Education and and the Workforce

James Comer
Chairman
House 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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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 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:

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        i. an annual effect on the economy of $100,000,000 or more;

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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 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,

Bruce Westerman
Chairman
Committee on Natural Resources

James Comer
Chairman
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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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, we assure you we will exercise our robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to also ensure the Biden Administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in these efforts, please answer the following as soon as possible, but no later than 5:00 p.m. ET on 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.

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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 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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        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

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,

Sam Graves
Chairman
Committee on Transportation
and Infrastructure

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 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.

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

[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/.

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, 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 as soon as possible, but no later than 5:00 p.m. ET on 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.

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

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,

Sam Graves
Chairman
Committee on Transportation
and Infrastructure

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 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:

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*.

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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*.

    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.

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

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,

Sam Graves
Chairman
Committee on Transportation
and Infrastructure

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 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.

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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[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 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:

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.

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 DOE. 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, Committee on Natural Resources at (202) 225-2761 or HNRR.Oversight@mail.house.gov with any questions. We look forward to your cooperation.

Sincerely,

Bruce Westerman
Chairman
Committee on Natural Resources

James Comer
Chairman
Committee on Oversight and Accountability

JAMES COMER, KENTUCKY
CHAIRMAN

ONE HUNDRED EIGHTEENTH CONGRESS

JAMIE RASKIN, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143
MAJORITY (202) 225–5074
MINORITY (202) 225–5051
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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[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/

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,

James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

JAMES COMER, KENTUCKY
CHAIRMAN

ONE HUNDRED EIGHTEENTH CONGRESS

JAMIE RASKIN, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143
MAJORITY (202) 225–5074
MINORITY (202) 225–5051
https://oversight.house.gov

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.

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

[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/

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 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.

    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 your 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 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,

James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

JAMES COMER, KENTUCKY
CHAIRMAN

ONE HUNDRED EIGHTEENTH CONGRESS

JAMIE RASKIN, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143
MAJORITY (202) 225–5074
MINORITY (202) 225–5051
https://oversight.house.gov

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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[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 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.

    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 your 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 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

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        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 "[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,

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 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,

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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,

MIKE BOST
Chairman
Committee on Veterans Affairs

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 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;

    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,

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

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

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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[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/

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:

    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*.

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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.

Sincerely,

Patrick T. McHenry
Chairman
House Financial Services Committee

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.

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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Sincerely,

Patrick T. McHenry
Chairman
House Financial Services Committee

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.

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Sincerely,

Patrick T. McHenry
Chairman
House Financial Services Committee

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,

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Sincerely,

Patrick T. McHenry
Chairman
House Financial Services Committee

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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Patrick T. McHenry
Chairman
House Financial Services Committee

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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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.

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

Sincerely,

Patrick T. McHenry
Chairman
House Financial Services Committee

James Comer
Chairman
House Oversight Committee

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.

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'

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[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 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.

    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.

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

Sincerely,

Patrick T. McHenry
Chairman
House Financial Services Committee

James Comer
Chairman
House Oversight Committee

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

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.

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[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 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.

    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*.

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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;

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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,

Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

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:

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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[1] *Loper Bright Enterprises v. Raimondo,* 603 U.S. ___ (2024).
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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.

    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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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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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,

Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

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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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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[1] *Loper Bright Enterprises v. Raimondo,* 603 U.S. ___ (2024).
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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:

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Sincerely,

Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

James Comer
Chairman
House Committee on Oversight
and Accountability

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.

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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.

    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.

Your prompt attention to this request is appreciated.

Sincerely,

Virginia Foxx
Chairwoman
House Committee on Education
and the Workforce

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.

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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[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 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.

    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.

    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.

Your prompt attention to this request is appreciated.

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