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.

[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/.

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The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that "'[i]t is emphatically the province and duty of the judicial department to say what the law is.'" 603 U.S. at ___ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, 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*.

2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:

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[3] 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:

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v. United States, 95 F.2d 352, 361 (D.C. Cir. 1938). Moreover, under House Rule X, the Committee on Natural Resources has "general oversight" of any matter relating to its jurisdiction, including all matters concerning the programs and operations of the U.S. Department of the Interior. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, "any matter" at "any time" under House Rule X.

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 Jennifer M. Granholm
Secretary
U.S. Department of Energy
1000 Independence Ave SW
Washington, D.C. 20585

Secretary Granholm:

The House Committee on Natural Resources and House Committee on Oversight and Accountability (Committees) write to call to your attention *Loper Bright Enterprises v. Raimondo*, a recent Supreme Court decision that precludes courts from deferring to agency interpretations of the statutes they administer.[1] In its decision, the Court overruled *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which had allowed courts to defer to agency interpretations of ambiguous statutes. By allowing such deference, the Court in *Chevron* upset the founders' careful separation of powers, permitting courts to abdicate the judicial role granted exclusively to them through Article III of the Constitution and enabling the Executive to usurp the legislative authority granted exclusively to Congress through Article I. Unsurprisingly, *Chevron* unleashed decades of successively broader, more costly and more invasive assertions of agency power over citizens' lives, liberty and property, as agencies adopted expansive interpretations of assertedly ambiguous statutes, demanding courts defer to them.

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As the committee of jurisdiction overseeing the Department of Energy (DOE) and the committee of principal oversight jurisdiction under House Rule X, we assure you the Committees will exercise their robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

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An attachment to this letter provides additional instructions for responding to the requests from the Committees. Please contact the Majority staff for the Oversight and Investigations Subcommittee, Committee on Natural Resources at (202) 225-2761 or HNRR.Oversight@mail.house.gov with any questions. We look forward to your cooperation.

Sincerely,

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 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.

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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:

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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 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.

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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:

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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 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:

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Governance (ESG) agendas—have been based on aggressive interpretations of statutes enacted by Congress years and even decades ago, before many issues against which the Biden administration has sought to deploy them were even imagined.

The expansive administrative state *Chevron* deference encouraged has undermined our system of government, overburdening our citizenry and threatening to overwhelm the founders' system of checks and balances. Thankfully, the Court in *Loper Bright* has now corrected its *Chevron* error, reaffirming that "'[i]t is emphatically the province and duty of the judicial department to say what the law is.'" 603 U.S. at ___ (slip op. at 7-8) (quoting *Marbury v. Madison*, 1 Cranch 137, 177 (1803)). This long-needed reversal should stem the vast tide of federal agencies' overreach. Given the Biden administration's track record, however, the Committees are compelled to underscore the implications of *Loper Bright* and remind you of the limitations it has set on your authority.

As the committee of jurisdiction overseeing the Indian Health Service (IHS) and the committee of principal oversight jurisdiction under House Rule X, we assure you the Committees will exercise their robust investigative and legislative powers not only to reassert forcefully our Article I responsibilities, but to ensure the Biden administration respects the limits placed on its authority by the Court's *Loper Bright* decision. Accordingly, to assist in this effort, please answer the following no later than July 31, 2024, in electronic form:

1. Please provide the following concerning agency legislative rules proposed or promulgated since January 20, 2021, identifying in each relevant listing the rule or rulemaking and agency statutory interpretation concerned:

    a. A list of all pending judicial challenges to final agency rules that may be impacted by the Court's *Loper Bright* decision.

    b. A list of all final agency rules not yet challenged in court that may be impacted by the Court's *Loper Bright* decision if they are so challenged.

    c. A list of all pending agency rulemakings in which the agency is relying on an agency interpretation of statutory authority that might have been eligible for *Chevron* deference prior to the Court's decision in *Loper Bright*.

2. Please provide the following concerning agency adjudications initiated or completed since January 20, 2021, identifying in each relevant listing the adjudication and agency statutory interpretation concerned:

    a. A list of all pending judicial challenges to final agency adjudications that may be impacted by the Court's *Loper Bright* decision.

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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;

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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.

5. Please provide the following concerning judicial decisions in cases to which your agency has been a party since the Supreme Court issued its *Chevron* decision in 1984, identifying in each relevant listing the statutory authority the agency interpreted and the agency statutory interpretation upheld:

   a. A list of all judicial decisions not ultimately overturned by a higher court in which the court deferred under *Chevron* to the agency's interpretation of a statute.

As you are aware, the Supreme Court has long recognized that Congressional oversight power is broad and far-reaching. *Barenblatt v. United States*, 360 U.S. 109 (1959). The Supreme Court has also established that Congress has a duty "to look diligently into every affair of

government" and "use every means of acquainting itself with the acts and the disposition of the administrative agents of the government." *Doe v. McMillan*, 412 U.S. 306 (1973). Hence, a "legislative inquiry may be as broad, as searching, and as exhaustive as is necessary." *Townsend v. United States*, 95 F.2d 352, 361 (D.C. Cir. 1938). Moreover, under House Rule X, the Committee on Natural Resources has "general oversight" of any matter relating to its jurisdiction, including all matters concerning the programs and operations of IHS. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to the requests from the Committees. Please contact the Majority staff for the Oversight and Investigations Subcommittee on the Committee on Natural Resources at (202) 225-2761 or HNRR.Oversight@mail.house.gov with any questions. We look forward to your cooperation.

Sincerely,

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.

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