



Trucker Reality

By OOFI • Jul 03, 2024

Smart Brevity® count: 2 mins...551 words

Welcome Back. As academics and regulators offer solutions for freight efficiency from 30,000 ft. up. We'll look at these solutions from 6ft. up from the pavement, in the driver's seat, at the realities of trucking.

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Has SCOTUS lit a fuse with Chevron?

The Supreme Court of the U.S. (SCOTUS) has finished its' term with a slew of decisions. While most everyone will be talking about presidential immunity, we in the trucking industry need to be looking at the "Chevron" ruling.

What it says (In non-legal language): SCOTUS has taken a lot of authority away from the executive branch and assigned it to the judiciary. The "Chevron Deference Doctrine" (1984) required judges to defer to reasonable federal agency interpretations of U.S. laws deemed to be ambiguous.

- **Fact:** Almost all regulations that are passed and enforced by agency regulators are ambiguous. Truckers have often complained about unworkable regulations made and enforced by agencies with little or no real experience in what they are regulating.
- **Fact:** The Doctrine has allowed Federal agencies/regulators the power to expand their authority.
- **Fact:** The assumption being that the agencies/regulators would have more knowledge of how to carry out an executive directive that is difficult due to time and changes.

Interestingly, OOIDA has recently signed on to a letter urging the Administrator of the EPA to withdraw the final rule on "Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles—Phase 3". It's possible that a new court challenge may have more success if there is no Chevron Doctrine.

The big picture: The EPA has been in multiple law suits and has relied on the Chevron Doctrine when taken to court to advance their program.

- This ruling by SCOTUS disallows that doctrine to be used as a defense by agencies/regulators for administrating rules that, as OOIDA has often stated, are arbitrary and capricious.
- For example, EPA used the Clean Air Act (CAA) to expand their authority over mobile sources, such as truck emissions, but the CAA doesn't cover GHG emissions from mobile sources.

Reality: While this ruling does give more opportunity to challenge an agency's interpretation, it doesn't automatically change rules that are in place now.

- **Yes, but:** It does shift a lot of responsibility to federally appointed judges, who may have their own bias and are often appointed to their position by political factions.

Impacts on trucking: FMCSA, NHTSA, FHWA, etc. have all used the Chevron Deference Doctrine to expand their authority.

- The question is, will they be challenged more often?
- In the past, these agencies have also relied on the safety aspects of any regulations and rules.

It isn't all good news: Here are some examples where the ruling could cause some potential headaches for the trucking industry.

- Independent contractor status
- The recent decision banning noncompete clauses (business groups with lots of lawyers will be incentivized to challenge).
- Consumer Financial Protection Bureau may not be able to restrict what shows up on your credit report; rules that protect consumers from scams.
- Overtime pay, benefits, retirement plans, right o organize could be challenged
- A multitude of health and human services regulations that protect individuals may be challenged.
- Cyber security requirements may be challenged as the internet and AI become more complex.

As usual, we must remain diligent and informed whenever any doctrine is introduced or removed. Thank you for all you do.

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