

## *Chevron* Overboard? *Loper Bright Enterprises v. Raimondo* With Prof. Kristin Hickman

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Since the 1980s, *Chevron* deference has set the standard for when courts should defer to reasonable agency interpretations of ambiguous statutes. That may all change, however, as the US Supreme Court will reconsider the *Chevron* deference in *Loper Bright Enterprises v. Raimondo*.

In this episode of the Bracewell Environmental Law Monitor, host [Daniel Pope](#) talks with administrative law scholar [Kristin Hickman](#), McKnight Presidential Professor in Law, Distinguished McKnight University Professor and Harlan Albert Rogers Professor in Law at the [University of Minnesota Law School](#), about the history and influence of *Chevron* deference, its significance in the current legal landscape, the separation of powers arguments and the role of stare decisis in the context of *Chevron* deference. They also discuss *Loper Bright Enterprises v. Raimondo* and its potential implications. Tune in to hear them unpack the issues surrounding *Chevron* and what post-*Chevron* administrative law might look like.

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## Featured Guest

**Name:** [Kristin Hickman](#)

**About:** Professor Kristin Hickman is a leading authority in the fields of tax administration, administrative law and statutory interpretation. She has written dozens of articles, essays, book chapters and commentaries concerning Treasury Department and IRS regulatory practices, the *Chevron*, *Skidmore* and *Auer* judicial deference doctrines and various other legal topics. Professor

Hickman's work is cited regularly in court briefs and judicial opinions, including on several occasions by the US Supreme Court.

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## Episode Highlights

[03:02] **The Impact of *Chevron* on Administrative Law:** Professor Hickman reflects on the 1984 *Chevron* decision. She notes how Justice Scalia proselytized judicial deference to agency interpretations of law under *Chevron* and yet was one of the least deferential justices himself.

[07:38] ***Chevron's* Perceived Dominance:** *Chevron* has become synonymous with administrative law and has dominated the administrative law conversation for decades, although there are other doctrines that apply to standards of review for agency action, Professor Hickman explains.

[10:19] **The Current State of *Chevron*:** Professor Hickman notes that "it has never been the case throughout *Chevron's* history that *Chevron* automatically means the agency wins". Additionally, *Chevron* has declined in significance in recent years, notably at the US Supreme Court level.

[14:06] ***Loper Bright Enterprises v. Raimondo*:** Professor Hickman shares her thoughts on the petitioners' argument in this case that *Chevron* deference is a unique threat to separation of powers.

[21:07] **Stare Decisis and Uncertainty:** The government argues in *Loper Bright* that settled agency interpretations under *Chevron* could all be undone, leading to widespread legal uncertainty. Professor Hickman pushes back against this "litigation hyperbole" while recognizing that uncertainty is a legitimate issue.

[23:41] **Three Conceptualizations of *Chevron*:** Professor Hickman says there are three different ways *Chevron* can be conceptualized: as a canon of construction, a standard of review and a rule of decision. She wonders if this framing will affect the justices' thinking in *Loper Bright*.

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