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## US Supreme Court curbs federal agency powers, overturning 1984 precedent

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By Reuters

WASHINGTON — The U.S. Supreme Court dealt a major blow to federal regulatory power on Friday by overturning a 1984 precedent that had given deference to government agencies in interpreting laws they administer, handing a defeat to President Joe Biden's administration.

The justices ruled 6-3 in favor of fishing companies that challenged a government-run program partly funded by industry that monitored overfishing of herring off New England's coast.

It marked the latest decision in recent years powered by the Supreme Court's conservative majority that hemmed in the authority of federal agencies.

The precedent that the court overturned arose from a ruling involving oil company Chevron that had called for judges to defer to reasonable federal agency interpretations of U.S. laws deemed to be ambiguous. This doctrine, long opposed by conservatives and business interests, was called "Chevron deference."

The decreasing productivity of Congress – thanks to its gaping partisan divide – has led to a growing reliance, especially by Democratic presidents, on rules issued by U.S. agencies to realize regulatory goals.

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Democratic President Joe Biden's administration had defended the National Marine Fisheries Service regulation at issue and the Chevron deference doctrine. The fish conservation program was started in 2020 under Republican former President Donald Trump.

The regulation called for certain commercial fishermen to carry aboard their vessels U.S. government contractors and pay for their at-sea services while they monitored the catch.

The companies – led by New Jersey-based Loper Bright Enterprises and Rhode Island-based Relentless Inc – in 2020 sued the fisheries service, claiming the monitoring program exceeded the Commerce Department agency's authority.

The bid by the fishermen was supported by various conservative and corporate interest groups including billionaire Charles Koch's network. The litigation is part of what has been termed the "war on the administrative state," an effort to weaken the federal agency bureaucracy that interprets laws, crafts federal rules and implements executive action.

The Supreme Court, with its 6-3 conservative majority, has signaled skepticism toward expansive regulatory power, issuing rulings in recent years to rein in what its conservative justices have viewed as overreach by the Environmental Protection Agency and other agencies.

The fish conservation program aimed to monitor 50 percent of declared herring fishing trips in the regulated area, with program costs split between the federal government and the fishing industry. The cost to commercial fishermen of paying for the monitoring was an estimated \$710 per day for 19 days a year, which could reduce a vessel's income by up to 20 percent, according to government figures.

The Biden administration said the program was authorized under a 1976 federal law called the Magnuson–Stevens Act to protect against overfishing in U.S. coastal waters. It said in court papers the program was suspended for the fishing year starting in April 2023 due to insufficient federal funding.

The Washington–based U.S. Court of Appeals for the District of Columbia Circuit and the Boston–based 1st U.S. Circuit Court of Appeals both ruled in favor of the government.

The Biden administration said Chevron deference among other things "gives due weight to the expertise that agencies bring to bear" and promotes national uniformity in the administration of federal law.

An attorney for the commercial fishermen said Chevron deference "incentivizes a dynamic where Congress does far less than the Framers [of the U.S. Constitution] anticipated, and the executive branch is left to do far more by deciding controversial issues via regulatory fiat."

The Supreme Court has issued other rulings this term involving the scope of agency powers, including two rulings on Thursday. It rejected the Securities and Exchange Commission's in-house enforcement of laws protecting investors against securities fraud. It also blocked an Environmental Protection Agency regulation aimed at reducing ozone emissions that may worsen air pollution in neighboring states.

The justices on May 16 upheld the Consumer Financial Protection Bureau's funding mechanism in a challenge brought by the payday loan industry.

