

TOPLINE: Congress should codify and expand on the recent changes to judicial review made in [Loper Bright Enterprises v. Raimondo](#) that clarified that courts need not give deference to federal agencies' interpretations of ambiguous statutes.

BACKGROUND: The Founders intended for Congress to make laws, the executive branch to enforce them, and the judicial branch to interpret them. That model limits the centralization of government power by allowing the branches to act as checks against any branch that encroaches on the others' constitutional powers. The separation of powers has been under some strain since Depression-era [realignments](#) concentrated expansive regulatory powers in executive branch agencies.

Congress enacted the [Administrative Procedure Act](#) (APA) in 1946 to put guardrails on often unaccountable agencies, requiring notices of proposed rulemaking and public comment periods, and establishing a judicial review process for challenged rules. However, [Chevron v. NRDC](#) (1984) tilted the APA's judicial review process in favor of agencies' discretion, holding that courts should defer to agencies' "reasonable" interpretations on matters where the statute is ambiguous. But in [Loper Bright Enterprises v. Raimondo](#) (2024), the Supreme Court held that courts must "exercise their independent judgment in deciding whether an agency has acted within its statutory authority." *Loper Bright* instructed courts to give "respectful consideration" to executive branch interpretations, though it was silent on the separate [question](#) of whether courts [should defer](#) to agencies' interpretations of ambiguities in rules they've written.

Action Items (Congress):

- Revise the APA to **require courts to decide legal questions related to agency actions independently**, not deferring to agency interpretations of statutes *or* rules.
- Revise the APA to **require that agencies adopt the least burdensome regulatory alternatives** that still accomplish Congress's legislative purposes, unless the statute directs agencies otherwise.
- **Avoid delegating broad policymaking power to executive branch agencies.**

How It Would Make Life More Affordable:

- It would curtail agencies' promulgation of burdensome new rules.
- Fewer resources would be spent navigating the whims of unelected regulators.
- Compliance with federal regulations may cost more than [\\$2 trillion](#) per year.
- Agencies published [2.8 million](#) pages in the Federal Register from 1985 to 2024.

Related Legislation: SOPRA Act ([S. 33](#), [H.R. 1605](#)); Regulatory Accountability Act ([S. 1708](#), [H.R. 3525](#)).

BOTTOMLINE: Congress and the courts should ensure that agencies stick to enforcing the law as written.