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NCLA Pushes Court to Reel in Unlawful Fishery Monitoring Rule After Supreme Court Sinks *Chevron* Deference

Relentless Inc., et al. v. U.S. Dept. of Commerce, et al.

Washington, DC (September 27, 2024) – The New Civil Liberties Alliance has filed a [Supplemental Brief](#) urging the court to vacate the Industry-Funded Monitoring (IFM) Omnibus Amendment, issued by the New England Fishery Management Council (NEFMC) and applied to nearly all fisheries in the region. Implemented by the National Oceanic and Atmospheric Administration’s (NOAA) February 2020 Final Rule, the Herring Rule is just the first of many industry-funded monitoring programs. To enforce the Amendment, NOAA must issue separate rules for each fishery. NCLA has consistently sought to vacate both the Rule and the Amendment.

This request follows the Supreme Court’s recent decision in *Loper Bright Enterprises, Inc. v. Raimondo* and *Relentless, Inc. v. Department of Commerce*, where the Court overturned *Chevron* deference, eliminating judicial deference to agency interpretations of allegedly ambiguous or silent statutes.

The key issue now before the court is whether the Magnuson-Stevens Fishery Conservation and Management Act (MSA) actually authorizes the agency’s controversial amendment. NCLA argues that Congress never authorized the Secretary of Commerce, under the MSA, to force New England fishermen into contracts with onboard observers. The costly Industry-Funded Monitoring program was imposed without proper statutory authorization, and without *Chevron* deference, this unlawful rule and amendment must be struck down.

Now that *Chevron* deference has been overruled, courts are required to evaluate agency actions based on the statute’s language, without substituting the agency’s interpretations for what Congress wrote. This legal shift rightfully restores judicial authority to determine the meaning of the law to the courts, rather than relying on agency’s often self-aggrandizing interpretations.

NCLA believes Americans’ liberty interests are better protected when regulators are no longer able to substitute their own views for those that Congress actually set down in law. The Omnibus Amendment goes beyond its statutory limits, and NCLA calls on the court to declare it unlawful and vacate the Final Rule.

NCLA released the following statements:

“With the death of *Chevron* deference in *Loper Bright* and *Relentless* this unlawful rule should die with it.”
— **John Vecchione, Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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