

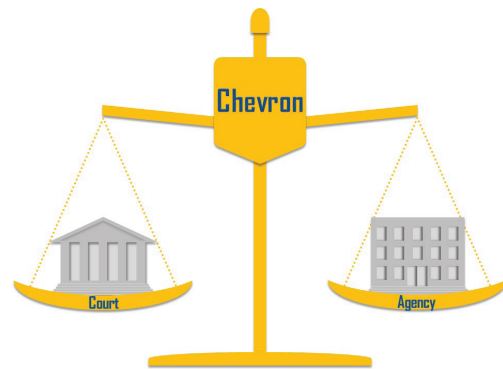
In the Case of Statutory Ambiguity, Who Decides? – *Chevron* Revisited

Date: Thursday, June 13, 2019

Time: 4:30 p.m. – 6:00 p.m.

Location: Ceremonial Courtroom, 6th Floor

E. Barrett Prettyman U.S. Courthouse, 3rd Street & Constitution Avenue, N.W., Washington, D.C.



Chevron v. NRDC is perhaps the seminal case in administrative law over the past several decades and a subject of increasing controversy. Our program will examine its origins, impact, and future viability.

The Clean Air Act required a construction moratorium and permit process for “stationary sources” in areas that failed to meet air quality standards. Congress did not define what it meant by “stationary source.” In August 1980, EPA defined a “source” as either an entire plant or a single piece of equipment, thereby sweeping more units in for review in areas with unhealthy air. Fourteen months later, EPA dramatically changed course, repealing the “dual definition” and identifying “source” as an entire plant. EPA stated that the new definition, termed the “bubble concept,” would eliminate regulatory complexity and return states to their role as primary actors in pollution control. On challenge by NRDC, the D.C. Circuit rejected the bubble concept, drawing on its understanding of the statute’s purpose of improving air quality to guide its decision. The Supreme Court reversed, laying down the famous “Chevron two-step” dictating that, in the face of statutory ambiguity, a court should not proffer its own construction but should defer instead to a reasonable agency interpretation.

Our program will include a reenactment of arguments presented to the D.C. Circuit, focusing not on the proper definition of “stationary source” but on the key question of which body, the court or the agency, is to provide the answer when the statute is ambiguous. Following the reenactment, there will be a panel discussion exploring the legacy of *Chevron* and the current status of the *Chevron* Doctrine.

Admission is free.

Reservations are not required.

A reception with light refreshments will follow the program.

Society programs depend on the generosity of members, law firms, and others. Non-members are invited to join the Society or to make a contribution. For information, call 202.216.7346 or visit: www.dcchs.org.

The Historical Society of the D.C. Circuit is a 501(c)(3) organization independent of the Courts.

Setting the Stage

Gillian Metzger, Stanley H. Fuld Professor of Law, Columbia Law School

Reenactment

For petitioners, Natural Resources Defense Council, Inc., *et al.*, **John P. Elwood**, Vinson & Elkins, LLP. For respondent, Anne M Gorsuch, Administrator, U.S. Environmental Protection Agency, **David C. Vladeck**, A.B. Chettle Chair in Civil Procedure, Georgetown University Law Center

Judith W. Rogers, Judge, U.S. Court of Appeals for the D.C. Circuit
Gregory G. Katsas, Judge, U.S. Court of Appeals for the D.C. Circuit

Panel Discussion

Moderator, **Christopher J. Walker**, Associate Professor of Law, Ohio State University Moritz College of Law

Panelists, **John F. Manning**, Morgan and Helen Chu Dean and Professor of Law, Harvard Law School, **Gillian Metzger**, **John P. Elwood** and **David C. Vladeck**