NEW STUDY CLARIFIES HOW RULES FROM DIFFERENT PRESIDENTS AND AGENCIES HAVE FARED IN COURT CHALLENGES

As the Supreme Court prepares to rule on key regulatory cases, an Institute for Policy Integrity study and interactive data tool explore litigation patterns over nearly three decades.

The Supreme Court will soon hand down decisions in two cases that could upend regulatory policy—*Loper Bright Enterprises v. Raimondo* and *Relentless, Inc. v. Department of Commerce.* As analysts consider the impacts of these rulings and evaluate the durability of major rules issued by various presidents and federal agencies, a new study and accompanying data resource highlight critically important patterns from the past 25 years.

The study from the Institute for Policy Integrity at NYU School of Law uses a novel dataset of all 1,870 major rules (as defined by the Congressional Review Act) issued from 1996 through the end of 2023. The study analyzes whether a major rule issued today is as likely to be challenged and withstand the challenge as a rule issued 25 years ago. The study also breaks down win rates by presidential administration and issuing agency, as well as by party of the deciding judges' appointing president. Additionally, it examines trends in forum shopping and the use of *Chevron* deference (which the Supreme Court could end or alter this week) among other variables.

The authors find several critical insights, including that most major rules are never challenged in court; win rates for presidents' rules have generally been declining since the Clinton administration (though the Biden administration's win rate is somewhat higher than that of the Trump administration); win rates vary widely across agencies; and *Chevron* citations in these cases have been rapidly declining among recently appointed judges.

These findings provide useful context that can help clarify what the Supreme Court's decisions will mean for the future of U.S. regulatory policy.

Donald Goodson, one of the authors of the study, is available for interviews on this issue.

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The Institute for Policy Integrity at New York University School of Law is a non-partisan think tank dedicated to improving the quality of government decisionmaking. The institute produces original scholarly research in the fields of economics, law, and regulatory policy; and advocates for reform before courts, legislatures, and executive agencies.