

Introduction to Spring 2026 Edition RCRA & Superfund Practice Guide-Highlights Spring 2026

- Status of PFAS substances under CERCLA
- Update on EPA anticipated Strategic Plan 2026-2030
- Update to Joint & Several Liability discussions
- Update to Expert Testimony discussion
- Recent case law involving:

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- RCRA cases:
 - Definitions
 - Coal Ash
 - TSDf & container rules
 - Costs awarded – prevailing party
 - Intervention
 - Imminent & Endangerment definitions
 - Primary Jurisdiction
 - UST systems – Empty Container Rule

—CERCLA cases:

- Definitions
- Elements—atypical
- Arranger/Owner/Operator liability
- Declaratory Judgment actions
- Expert testimony requirements
- Joint & Several liability
- False Claims Act & CERCLA
- FTCA & CERCLA
- Arbitration & CERCLA settlements
- Allocation Factors: Gore, Torres, UCFA
- Causation

The Supreme Court in *Loper Bright Enterprises et al. v. Raimondo, Secretary Of Commerce, et al.*, 144 S.Ct. 2244 (June 28, 2024) held that courts need not, and under the Administrative Procedure Act (APA) may not, defer to an agency's interpretation of the law simply because a statute is ambiguous; overruling *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694. How this opinion will play out in the long term to affect EPA's interpretations under CERCLA and RCRA will play out over time.

Chief Justice Roberts did state “By doing so, however, we do not call into question prior cases that relied on the *Chevron* framework. The holdings of those cases

that specific agency actions are lawful—including the Clean Air Act holding of *Chevron* itself—are still subject to statutory *stare decisis* despite our change in interpretive methodology.. “ (at 2273)

For purposes of this update, it is important that Practitioners are aware that Chevron deference is no longer the standard that courts are to apply. Numerous legal commentators have weighed in to speculate on the extent of change that may occur in interpretation of agency interpretations of law. Many argue that the standard of deference from *Skidmore v. Swift & Co.*, 323 U.S. 134, 140, 65 S.Ct. 161, 89 L.Ed. 124 (1944), which Chief Justice Roberts discusses in his opinion in *Loper Bright*.