



**Deference to Agency Interpretations:
Abdication to Ambiguity**

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Synopsis

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§ 3.01. Introduction and Synopsis.

This chapter discusses when, and to what extent, a court or adjudicative agency must defer to interpretations of statutes or regulations by an enforcement agency such as the Mine Safety and Health Administration (MSHA). Its principal focus is the effects and the correctness of the Supreme Court’s decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council*.²

The chapter also discusses the course of judicial decisions on deference under such statutes as the Federal Mine Safety and Health Act and the Occupational Safety and Health Act, with an emphasis on the former. It suggests practical steps that lawyers for mine operators can take to avoid judicial deference, and analyzes the possible future of *Chevron*-style deference.

§ 3.02. *Chevron*, Its Ancestors and Progeny.

[1] — *Chevron*’s Place in Administrative Law.

In *Chevron*, the U.S. Supreme Court appeared to resolve a long-noted³ inconsistency between two lines of case law. In one line of cases, the

² *Chevron U.S.A. Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984).

³ See K. Davis, *Administrative Law Treatise* § 29.16 (2d ed. 1984). See, e.g., *Pittston Stevedoring Corp. v. Dellaventura*, 544 F.2d 35, 49 (2d Cir. 1976)(per Friendly, J.) (“there are two lines of Supreme Court decisions on this subject which are analytically in