A question I've been getting a lot since the Supreme Court overturned the Chevron doctrine is: "What does this decision mean for California?" Here are three takeaways about how the Golden State is likely—or not—to be impacted at first blush.

First, the decision *does* have the potential to impact California directly in some pending litigation. For example, there's a current challenge to EPA's waiver under the Clean Air Act for the Air Resources Board's Advanced Clean Trucks regulations (ACT), which require that zero-emission trucks represent an increasing proportion of in-state heavy-duty truck sales. (A crash course in the waiver: While states typically can't adopt their own tailpipe emissions standards, Clean Air Act section 209 contains a special carveout for California to seek a waiver to adopt separate standards, which EPA is to grant unless certain conditions are met; the overwhelming majority of waiver requests California has made have been approved.) Among the bases for that challenge is an argument that EPA lacks statutory authority under the Clean Air Act to grant a waiver for ACT because it cannot itself mandate electric vehicle adoption, and so cannot grant a waiver to California to set such a mandate.

In a *Chevron*-less world, we don't know how reviewing courts will rule on the merits of that argument, but what is clear is that they do not need to defer to EPA's own interpretation of its authority to grant a waiver under section 209 for such regulations. Reviewing courts may take EPA's views into account—but are not obligated to do so. In the case of ACT, the public health and environmental consequences are high: The diesel engines that the rule is seeking to replace cause serious air pollution in some of the state's most pollution-overburdened communities, which are primarily low-income communities of color.

Second, the decision is *unlikely* to impact the way California courts treat their own reviews of California state agency determinations. California courts have their own set of principles for giving weight to state agency interpretations of state law, known as "interpretive rules." ("Quasi-legislative" rules, where agencies have expressly been delegated the Legislature's own lawmaking power, are more narrowly reviewed by courts.) There are "two broad categories of factors relevant to a court's assessment of the weight due an agency's interpretation: those 'indicating that the agency has a comparative interpretive advantage over the courts,' and those 'indicating that the interpretation in question is probably correct.'" *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 12 (internal citations omitted).

The first set of factors consider whether the agency has some form of special technical knowledge or expertise that would make it uniquely qualified to offer an interpretation of the statute. *Id*. The second set of factors consider, in essence, how thorough and stable the

agency's interpretation of the statute has been over time—whether the agency adopted its interpretation roughly contemporaneously with enactment of the statute, whether the interpretation was well-considered, and whether the interpretation is long-standing. *Id*. at 12-13. In articulating these principles, rather than relying on *Chevron*, the California Supreme Court drew on the United States Supreme Court's earlier decision in *Skidmore v. Swift Co.*, 323 U.S. 134 (1944); Justice Roberts' *Loper Bright* majority opinion cites that same case for the proposition that courts may continue to rely on agency interpretations for guidance without owing them any presumption of deference. In sum, California's own jurisprudence already provides for a different weighing of agencies' statutory interpretations than *Chevron* did and is therefore not likely to be impacted by today's decision.

Finally, the decision underscores the augmented role states, including California, will need to continue to play in fighting climate change. The decision, combined with other recent jurisprudence, consolidates ever more power in the federal judiciary. And by requiring a level of statutory clarity that is often not present (or that courts can find not to be present) in existing laws—and that Congress is unlikely to legislate, given its current dysfunction—it also constraints the ability of federal agencies like the EPA to utilize a robust suite of regulatory tools to do their work. The end results: More and more federal regulatory questions will be resolved by courts, not necessarily with uniformity, and federal agencies are likely to be chilled in their attempts to use existing statutory authorities to combat novel problems like climate change.

In fighting to keep our planet livable, states like California will need to continue to think about how they can use their own state authorities to legislate and regulate. But states will not make as much progress alone as they would have with a strong federal partner, and that will have real consequences for the climate, both here in California, and beyond.