No. 24-813

IN THE

# Supreme Court of the United States

CHEVRON U.S.A. INC.; CHEVRON U.S.A. HOLDINGS, INCORPORATED; CHEVRON PIPE LINE COMPANY; THE TEXAS COMPANY; EXXON MOBIL CORPORATION,

*Petitioners,*

v.

PLAQUEMINES PARISH; PARISH OF CAMERON; STATE OF LOUISIANA; LOUISIANA DEPARTMENT OF ENERGY AND NATURAL RESOURCES,

*Respondents.*

**On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit**

## BRIEF OF WASHINGTON LEGAL FOUNDATION AND ATLANTIC LEGAL FOUNDATION AS AMICI CURIAE IN SUPPORT OF PETITIONERS


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## QUESTIONS PRESENTED

(1) Does a causal-nexus or contractual-direction test align with the 2011 amendment to the federal-officer removal statute?

(2) Can federal contractors remove state-court suits to federal court when sued over actions related to federal contracts?

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## INTEREST OF AMICI CURIAE*

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Established in 1977, the Atlantic Legal Foundation (ALF) is a national, nonprofit, nonpartisan, public interest law firm. ALF's mission is to advance the rule of law and civil justice by advocating for individual liberty, free enterprise, property rights, limited and responsible government, sound science in judicial and regulatory proceedings, and effective education, including parental rights and school choice. With the benefit of guidance from the distinguished legal scholars, corporate legal officers, private practitioners, business executives, and prominent scientists who serve on its Board of Directors and Advisory Council, ALF pursues its mission by participating as amicus curiae in carefully selected appeals before the Supreme Court, federal courts of appeals, and state supreme courts. *See* atlanticlegal.org.

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* No party's counsel authored any part of this brief. No one, other than amici and their counsel, contributed money for preparing or submitting this brief.

The federal-officer removal statute, 28 U.S.C. § 1442(a)(1), grants federal contractors a neutral forum for suits tied to federal projects. Many American businesses rely on this protection to fulfill government contracts without fear of state-court bias. The Fifth Circuit's narrow reading of the statute chills private sector collaboration with the federal government. Amici urge the Court to restore the statute's proper scope.

## SUMMARY OF ARGUMENT

Congress safeguards the implementation of federal policy. Since 1815, the federal-officer removal statute has shielded officers and contractors from local judges who might balk at federal directives. In 2011, Congress swapped a clunky causal-nexus test for an express "relating to" standard so that any suit connected to federal acts gets a federal forum. The Fifth Circuit's insistence on a contractual directive ignores this plain text and resurrects the old, discarded rule. Petitioners' wartime oil production, linked to federal aviation gasoline (avgas) contracts, easily meets the "relating to" test. This commonsense reading safeguards national projects, keeps the economy humming, and respects federalism without letting States run amok.

The statute's history underscores its protective aim. Congress first shielded customs agents from state courts during the War of 1812. It expanded protection through the 1833 Force Bill, the Civil War laws, and the 1948 codification to cover all federal officers and contractors. Most recently, Congress's 2011 amendment replaced this Court's narrow "causal connection" test with a broad "relating to" standard. By

inserting "or relating to" (as part of the change from "capacity for" to "capacity, for or relating to"), Congress replaced the previous test—which this Court had construed as requiring a direct causal connection between the defendant's actions and their official federal duties—with a broader "relating to" test that encompasses a wider range of conduct connected to acts under color of federal office. As petitioners' brief shows, six circuits share this understanding.

The Fifth Circuit's rule misreads the statute. By demanding a contractual directive, it revives the pre-2011 causal-nexus test and undermines Congress's intent to broaden removal. But as this Court has clarified in other statutory contexts, the words "relating to" require only a connection, not causation. Petitioners' oil production, linked to avgas contracts through pricing, tax exemptions, and Petroleum Administration for War (PAW) allocations, more than satisfies this standard.

Petitioners' reading also advances federal interests while preserving federalism. Removal protects national defense by shielding contractors from state-court bias. State courts often risk favoring local interests, looking askance at federal defenses like preemption, as Plaquemines Parish's $744.6 million verdict here confirms. Removal ensures neutrality without stripping state authority, as federal courts still must apply state law. This balances federal supremacy and state sovereignty, enabling contractors to serve without fear of judicial overreach.

The Fifth Circuit got it wrong. This Court should reverse.

## ARGUMENT

Congress safeguards federal policy and those who help to accomplish it. The federal-officer removal statute, 28 U.S.C. § 1442(a)(1), ensures that state courts cannot hinder contractors who answer federal needs. The Fifth Circuit's narrow test, requiring a contractual directive, misreads the statute's text and purpose. A broad "relating to" standard protects federal interests while honoring federalism. This Court must correct the error.

### I. THE FEDERAL-OFFICER REMOVAL STATUTE'S HISTORY AND PURPOSE DEMAND A BROAD READING OF "RELATING TO."

For over two centuries, Congress has shielded both federal officers and the private citizens working alongside them from state interference. The removal statute's history shows a clear aim to prevent state courts from obstructing anyone performing federal duties. From 1815 to 2011, Congress expanded its protections, ensuring that contractors can access federal courts when sued for federally related actions.

#### A. The statute's origins protect federal authority from state interference.

In 1815, Congress passed a law to shield customs agents from state courts. *Willingham v. Morgan*, 395 U.S. 402, 405 (1969). The War of 1812 sparked tension with New England, where many States opposed a federal trade embargo. *Id.* State courts, swayed by local sentiment, threatened to punish agents for enforcing federal law. *Id.* Congress allowed agents to move state lawsuits to federal courts,

countering bias and ensuring the continued performance of federal duties. *Id.*

This 1815 law, though temporary, set a powerful precedent. *Id*. at 405–06. It addressed a core federalism concern—that state courts, swayed by local sentiment, could obstruct federal authority by suing or arresting officers for acts authorized by federal law. *Tennessee v. Davis*, 100 U.S. 257, 263 (1879). Federal policy depends on officers acting without fear of state judicial overreach. Removal thus ensured a neutral federal forum to prevent such interference. *Willingham*, 395 U.S. at 405.

This Court has repeatedly affirmed that purpose. As *Davis* explained, removal prevents States from using judicial power to "arrest" federal functions. 100 U.S. at 263. Federal officers act within States, but their duties serve national interests. *Id*. State courts, accountable to local voters, may prioritize parochial concerns. *Id*. Removal thus ensures a neutral forum where federal law governs. *Mesa v. California*, 489 U.S. 121, 126-27 (1989).

The 1815 law established a lasting principle. *Willingham*, 395 U.S. at 405. Federal officers and those assisting them need protection to execute national policy. *Watson*, 551 U.S. at 153–54. This protection balances federal and state power, while ensuring federal supremacy. *Arizona v. Manypenny*, 451 U.S. 232, 241 (1981).

### B. Congress expanded the statute to shield federal officers and contractors.

Later crises yielded broader protections. In 1833, South Carolina's nullification crisis over federal tariffs led to the Force Bill. *Willingham*, 395 U.S. at 405. This law allowed customs officers to remove state suits to federal courts, addressing state hostility to federal revenue collection. *Id.* The Force Bill reaffirmed that federal officers must be allowed to act without state obstruction.

The Civil War brought more challenges. States resisted federal revenue laws, suing or prosecuting agents enforcing them. *Id.* at 405–406. Congress responded with removal provisions to protect these agents. *Id.* These laws became a permanent statute, focused on revenue enforcement. *Id.* at 406. In 1948, Congress expanded it to cover all federal officers, ensuring comprehensive protection. *Id.*

Congress expanded the statute to protect federal contractors who work alongside federal officers to achieve federal goals. *Watson*, 551 U.S. at 153–54; *Boyle v. United Techs. Corp.*, 487 U.S. 500, 507 (1988). Removal shields these contractors from state-court bias, ensuring that they can serve without fear of judicial overreach, a principle vital to federal supremacy. *Manypenny*, 451 U.S. 232, 241 (1981).

This Court has consistently upheld the statute's broad purpose. In *Willingham*, it held that removal applies when suits arise from officers' duties, even those without immunity. 395 U.S. at 407. In *Watson*, it confirmed that contractors acting under

federal officers qualify for removal. 551 U.S. at 153–54. In *Mesa*, it emphasized that removal protects federal operations from state interference. 489 U.S. at 126–27. And most recently in *BP*, 593 U.S. at 238, the Court reaffirmed the statute's broad protective scope, recognizing that § 1442(a)(1) ensures federal courts can address federal defenses, vital for contractors who, like petitioners, face state-court bias. These rulings all underscore Congress's aim to provide a federal forum for those accomplishing federal interests. *Davis*, 100 U.S. at 263.

The statute's evolution shows Congress's commitment to federal supremacy in accomplishing its policy aims. *Id*. State courts cannot use litigation to thwart those helping implement federal policy. *Manypenny*, 451 U.S. at 241.

### C. The 2011 amendment imposed a broad "relating to" test.

The federal-officer removal statute is not a "narrow" or "limited" authority but a "broad" one, designed to protect federal officers from interference by hostile state courts. *Willingham*, 395 U.S. at 406 (quoting *Colorado v. Symes*, 28 U.S. 510, 517 (1932)). Those words, penned by Justice Thurgood Marshall in 1969, ring even truer after Congress replaced this Court's "causal connection" test in 2011 with a broad "relating to" standard.

Before 2011, this Court required a nexus or "causal connection" between the suit and federal acts. *Jefferson Cnty. v. Acker*, 527 U.S. 423, 431 (1999). The Court interpreted "for any act" narrowly, limiting removal to suits directly caused by federal duties. *Id.*

But that standard created uncertainty, as courts debated the proximate sweep of causation needed to trigger removal. Federal officers and contractors faced inconsistent access to federal courts. *See Watson*, 551 U.S. at 152 (ruling that a private company could not invoke the federal officer removal statute merely by complying with federal regulations).

In response to this uncertainty, Congress expanded § 1442(a)(1) in 2011. By inserting "or relating to" (as part of the change from "capacity for" to "capacity, for or relating to"), Congress effectively ousted or replaced the previous test—which this Court had construed as requiring a direct causal connection between the defendant's actions and their official federal duties—with a broader "relating to" test that encompasses a wider range of conduct connected to acts under color of federal office. Removal Clarification Act of 2011, Pub. L. No. 112-51, 125 Stat. 545 (2011). As this Court recognized in *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 383 (1992), "relating to" means any connection or association, not strict causation. *Id*. The amendment clarified judicial confusion over causation, aligning the text with the statute's purpose to shield federal duties from state-court interference.

Several circuits have adopted this straightforward reading. *See, e.g., In re Commonwealth's Motion to Appoint Couns.*, 790 F.3d 457, 471 (3d Cir. 2015); *Sawyer v. Foster Wheeler LLC*, 860 F.3d 249, 258 (4th Cir. 2017). They hold that "relating to" requires only a link, not causation. *Id*. This ensures that federal officers and contractors can defend against state suits in federal courts, fulfilling Congress's intent. *Mesa*, 489 U.S. at 126–27. These decisions also accord with

this Court's earlier holding in *Watson*, 551 U.S. at 147, which held that the federal-officer removal statute must be "liberally construed" to protect contractors assisting federal functions.

The 2011 amendment advanced Congress's aim to remove jurisdictional barriers. *Willingham*, 395 U.S. at 407. It sought to ensure that suits over conduct tied to federal duties, like petitioners' oil production, would qualify for removal. The "relating to" update honors this intent, protecting federal interests without overstepping structural or statutory bounds. *Patel v. Garland*, 596 U.S. 328, 346 (2022).

## II. THE FIFTH CIRCUIT'S CONTRACTUAL-DIRECTION REQUIREMENT CONTRADICTS STATUTORY TEXT AND PURPOSE.

The Fifth Circuit erred. It demanded a contractual directive for removal, ignoring Congress's "relating to" test. This misstep revives a defunct test, blocking petitioners' access to federal courts.

### A. "Relating to" requires a connection, not causation.

The statute permits the removal of suits "for or relating to any act under color of [federal] office," requiring only a connection, not causation. 28 U.S.C. § 1442(a)(1). This broad standard, adopted in 2011 to replace the causal-nexus test, ensures flexibility for complex suits tied to federal directives.

This Court has consistently interpreted "relating to" broadly. "Relating to" means "connected or associated with," not requiring specific direction or

causation. *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 96–97 (1983); *Morales*, 504 U.S. at 383. That proper reading aligns perfectly with the statute's broad purpose. *Willingham*, 395 U.S. at 407. Contractors rely on federal courts to resolve federal defenses like preemption and immunity, ensuring fair hearings. *Mesa*, 489 U.S. at 129. Requiring causation narrows that access, risking state-court bias. *Davis*, 100 U.S. at 263.

Against this clear text, respondents' policy arguments about federal-court jurisdiction must give way. *Patel*, 596 U.S. at 346 (2022) (holding that statutory text prevails over policy arguments); *see also* John F. Manning, *Textualism and Legislative Intent*, 91 Va. L. Rev. 419, 430 (2005).

Most circuits agree. *See, e.g., In re Commonwealth's Motion*, 790 F.3d at 471; *Sawyer*, 860 F.3d at 258. Drawing on *Morales*, 504 U.S. at 383, those circuits require only a "connection" or "association" between the suit and federal acts. In *Sawyer*, the Fourth Circuit allowed removal for a contractor's conduct tied to federal contracts, even without a specific directive. 860 F.3d at 258. The Third Circuit, in *Commonwealth's Motion*, rejected a causation requirement, focusing solely on connection. 790 F.3d at 471.

The "relating to" standard ensures flexibility. Suits often involve complex conduct tied to interlocking federal directives, like petitioners' oil production. A connection test best accommodates these realities, fulfilling Congress's intent to broaden removal. The Fifth Circuit's narrow approach eliminates this clarity, re-imposing a requirement that Congress explicitly discarded.

### B. The Fifth Circuit's test revives the discarded causal-nexus standard.

The Fifth Circuit went astray. It held that petitioners' oil production lacked a "sufficient connection" to federal avgas contracts without a contractual provision directing production. Pet. App. 29. But that "contractual direction" requirement revives the very causal-nexus test that Congress abolished. *Id.* at 8, 83. That can't be right.

In *Willingham*, the Court interpreted the pre-2011 statute to require only a minimal connection between the suit and federal duties. 395 U.S. at 409. The 2011 amendment responded to that holding and expanded that scope further. Yet the Fifth Circuit's test narrows it beyond even the pre-2011 standard. That reading risks a return to state-court bias, as contractors will face local juries hostile to federal interests. *Cf. Davis*, 100 U.S. at 263.

The Fifth Circuit's test simply pours old wine into new bottles, undermining Congress's intent to broaden removal to conduct connected to federal actions. This error is particularly jarring given the appeals court's own precedent holding that "relating to" broadened removal to require only a "connection" between the plaintiff's claims and acts under federal direction. *St. Charles Surgical Hosp., LLC v. La. Health Serv. & Indem. Co.*, 990 F.3d 447, 454 (5th Cir. 2021). Yet here, it reverted to a stricter test, requiring a specific contractual mandate. Pet. App. 30. This extra-statutory requirement contradicts the statute's plain text, which permits removal for suits "relating to" federal acts, not just those directly caused by them.

The Fifth Circuit's error is self-evident. It conceded that petitioners' oil production had "some relation" to avgas contracts but required a contractual directive. Pet. App. 28–29. This defies the "relating to" text, which requires only a relationship or connection.

### C. Petitioners' conduct satisfies the "relating to" test.

The record is clear. Petitioners' World War II-era oil production directly relates to their federal avgas contracts. Respondents challenge petitioners' production methods in Louisiana fields, alleging violations of state law. Pet. App. 4, 16. These methods produced crude oil that petitioners refined into avgas to fulfill federal contracts, which explicitly tied avgas pricing to the cost of crude production and transportation. Pet. App. 157–59 (contract adjusting avgas price based on East Texas crude costs).

The contracts also exempted crude production from state taxes, recognizing its role in federal wartime needs. Pet. App. 170–71. Indeed, the PAW allocated crude from these fields to petitioners' refineries, designating them as 'Critical Fields Essential to the War Program' for avgas production. Pet. App. 23 n.64, 35. These contractual and regulatory links show that petitioners' production methods were integrally connected to their federal duties, satisfying the "relating to" test. *Morales*, 504 U.S. at 383.

Petitioners' actions satisfy the "relating to" test. Respondents challenge methods tied to federal avgas contracts, which were vital for meeting wartime needs. Respondents' claims specifically target petitioners' extraction of excessive crude oil at rapid

rates, practices driven by the federal government's urgent demand for avgas to fuel the war effort, as petitioners' contracts required unprecedented production volumes. Pet. App. 20–21, 46 (noting federal need for 44,000,000 gallons daily). Simply put, respondents' claims bear directly on acts performed under federal direction. This link alone satisfies the statute's broad scope, which covers suits aimed at federally related acts.

Petitioners' colorable federal preemption defense, asserting that wartime directives preempt state-law claims, further ties their production to federal contracts, as those directives governed crude allocation and production to meet avgas needs. Pet. App. 62; *Boyle*, 487 U.S. at 507. This defense, which need not succeed to justify removal, *Willingham*, 395 U.S. at 407, underscores the federal interest in petitioners' conduct.

In sum, the Fifth Circuit misapplied the statute. Petitioners' conduct, tied to federal wartime needs, falls safely within § 1442(a)(1). Petitioners' reading restores a federal forum, protecting federal interests without overstepping statutory bounds.

## III. RESPONDENTS' COUNTERARGUMENTS FAIL TO OVERCOME THE "RELATING TO" TEST.

None of respondents' usual counterarguments diminish the Fifth Circuit's error. By imposing a contractual-direction requirement, the appeals court defied Congress's intent and deprived petitioners of a federal forum for conduct integrally tied to federal wartime directives.

As they did below, respondents may argue that construing the "relating to" standard broadly risks overburdening federal courts, undermining state sovereignty, or enabling removal based on tenuous connections to federal acts. But there is no such thing as a narrow "relating to" test. These concerns lack merit and cannot override the clear text of 28 U.S.C. § 1442(a)(1).

First, the fear of flooding federal courts is unfounded. The federal-officer removal statute includes built-in safeguards that limit its scope. Removal requires defendants to show they were "acting under" a federal officer and assert a "colorable federal defense." *Watson*, 551 U.S. at 153–54. These requirements ensure that only cases with a meaningful federal nexus qualify, preventing frivolous or attenuated claims from reaching federal court. As this Court has recognized, the statute targets a narrow category of cases involving federal duties, not a wholesale removal of state-law claims. *Mesa*, 489 U.S. at 129. Nor have circuit courts applying the broad "relating to" standard, such as the Third and Fourth Circuits, suffered an unmanageable influx of cases. *See, e.g., Sawyer*, 860 F.3d at 258; *In re Commonwealth's Motion*, 790 F.3d at 471.

Second, removal under § 1442(a)(1) respects federalism by balancing state and federal interests. Under *Erie*, federal courts hearing removed cases apply state substantive law, preserving state sovereignty while ensuring that federal defenses like preemption or immunity are fairly decided. *Mesa*, 489 U.S. at 129. This arrangement prevents state courts from obstructing federal policy through local bias, as this Court warned in *Davis*, 100 U.S. at 263. At the

same time, federal courts' deference to state law under *Erie* mitigates any perceived encroachment on state authority. Far from undermining federalism, removal upholds the supremacy of federal law while respecting state authority, a balance Congress deliberately struck. *Manypenny*, 451 U.S. at 241.

Third, concerns about tenuous connections misread the statute's text and purpose. Again, the "relating to" standard as interpreted by this Court requires a meaningful connection or association, not a remote or speculative link. *Morales*, 504 U.S. at 383. Petitioners' oil production, tied to federal avgas contracts through pricing, tax exemptions, and wartime allocations, exemplifies this connection. *See supra* Section II.C. The statute's other requirements help to ensure that only conduct with a salient federal nexus qualifies for removal. *Watson*, 551 U.S. at 153–54. At all events, respondents' policy objections cannot override the plain text of § 1442(a)(1), which Congress expanded in 2011 to broaden access to federal courts. *Patel*, 596 U.S. at 346 (statutory text prevails over policy arguments).

Petitioners produced oil under federal directives during World War II, a quintessential federal act to meet wartime needs. Yet a Louisiana court imposed a $744.6 million verdict against them for this conduct. Jack Brook, *Chevron Ordered to Pay More Than $740 Million to Restore Louisiana Coast*, Associated Press (Apr. 4, 2025), https://tinyurl.com/26cxpvy9. Such a result underscores the real risk that state courts, shaped by local juries and elected judges, might favor parochial interests over federal priorities, exposing contractors to bias. *Maryland v. Sope*r, 270 U.S. 9, 32 (1926). Congress has long recognized that

if this risk is not checked, it could deter contractors from serving national needs, undermining national defense and economic stability.

By exposing contractors to state-court bias, the decision below undermines Congress's intent to provide a federal forum for federal interests. Petitioners' interpretation of § 1442(a)(1) restores the intended balance, protecting contractors and ensuring that federal policies are carried out without fear of unfair state-court judgments. We need not speculate about the consequences of a contrary rule—Louisiana's $744.6 million verdict speaks for itself.

## CONCLUSION

The Court should reverse.

Respectfully submitted,

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