No. 24-813

In the Supreme Court of the United States

CHEVRON USA INCORPORATED, ET AL., PETITIONERS

v.

PLAQUEMINES PARISH, LOUISIANA, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONERS

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QUESTION PRESENTED

Petitioners are oil and gas companies whose predecessors had federal contracts to refine aviation gasoline for the federal government during World War II. These lawsuits in part challenge those predecessors' wartime production of crude oil that they used to help fulfill their federal contracts. The question presented is:

Whether petitioners are "person[s] acting under" a federal officer who face suits "relating to any act under color of [federal] office," as required to invoke the federal-officer-removal statute, 28 U.S.C. 1442(a)(1).

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INTEREST OF THE UNITED STATES

This case involves the application of the federal-officer-removal statute, 28 U.S.C. 1442(a)(1), to companies that had federal contracts during World War II. The United States has a substantial interest in the proper interpretation of that statute, which governs removal by federal officers themselves and protects federal operations from state-court interference.

INTRODUCTION

The federal-officer-removal statute, 28 U.S.C. 1442(a)(1), ensures the availability of a neutral federal forum to guard against the risk that state-court proceedings might interfere with the operations of the federal government. That statute has long been "broad." *Watson* v. *Philip Morris Cos.*, 551 U.S. 142, 147 (2007). Before 2011, Congress authorized "any person acting

under [a federal] officer" to remove any state-court suit "for any act under color of such office." 28 U.S.C. 1442(a)(1) (2006). This Court interpreted that language to authorize any person who assisted and was supervised by a federal officer in carrying out his duties to remove any suit targeting conduct causally connected to asserted federal authority. See *Watson*, 551 U.S. at 152; *Jefferson County* v. *Acker*, 527 U.S. 423, 431 (1999).

In 2011, Congress made the statute broader still, authorizing removal to federal court of any suit "for *or relating to* any act under color of [federal] office." 28 U.S.C. 1442(a)(1) (emphasis added); see Removal Clarification Act of 2011, Pub. L. No. 112-51, § 2(b), 125 Stat. 545. As this Court has often observed, the ordinary meaning of "relating to" is expansive, reaching anything that "has a connection with, or reference to," the object. *Morales* v. *Trans World Airlines, Inc.*, 504 U.S. 374, 383-384 (1992) (citation omitted).

The 2011 amendment thus layered one broad connection test on top of another, offering a federal forum for state-law claims that have the mere potential to interfere with federal operations. Combining this Court's established understanding of "relating to" with the pre-2011 removal test, persons acting under federal officers may now remove suits that have a connection with or refer to acts causally connected to asserted federal authority.

While capacious, the new federal-officer-removal statute is not infinite. This Court's precedents interpreting "relating to" in the preemption context impose meaningful constraints, including by tethering the phrase to the statutory objectives. So too here, removal is appropriately tied to the kinds of connections that risk state-court interference with federal operations.

Those principles support removal in this case. During World War II, petitioners' corporate predecessors (included in our references to petitioners) worked for the federal government to refine aviation gasoline—a vital wartime product that powered Allied air forces to victory. Respondents do not challenge the refining itself. But they challenge petitioners' production of crude oil that petitioners used in part to make that gasoline. The close link between oil production and refining—as reflected in petitioners' federal contracts and in the federal government's supervision of the wartime oil industry more generally—establishes the requisite connection for removal. In denying removal, the court of appeals demanded an unduly tight connection to a specific directive in petitioners' federal contracts—a requirement nowhere in the statutory text.

Alternatively, the federal government's supervision of the wartime oil industry—including some of the very practices that respondents challenge—independently supports removal. During World War II, the oil industry operated as a unique public–private partnership with a special wartime agency, the Petroleum Administration for War, overseeing the industry's operations in service of the Nation's shared wartime mission. That special relationship supports the removal of these suits challenging wartime production practices.

At the same time, a federal forum is just that: a forum. If respondents' claims have merit (a question on which the United States takes no position), they may proceed before impartial federal judges and juries in Louisiana, just upriver from the respondent parishes.

STATEMENT

A. Federal-Officer Removal

1. The federal-officer-removal statute, 28 U.S.C. 1442(a)(1), offers a federal forum to the federal government, its officers, and those acting under them for suits related to their federal acts. Specifically, "[t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof" may remove any civil or criminal action "for or relating to any act under color of such office." 28 U.S.C. 1442(a)(1). The statute's "'basic' purpose" is to protect the federal government from state-court "interference with its 'operations.'" *Watson* v. *Philip Morris Cos.*, 551 U.S. 142, 150 (2007) (quoting *Willingham* v. *Morgan*, 395 U.S. 402, 406 (1969)).

A removing defendant must satisfy three requirements. First, the defendant must be the United States, a federal agency, a federal officer, or a person acting under a federal officer. 28 U.S.C. 1442(a)(1). Second, for federal officers and those acting under them, the suit must be "for or relating to any act under color of such office." *Ibid.* And third, the defendant must assert a "colorable" federal defense. *Mesa* v. *California*, 489 U.S. 121, 129 (1989). In evaluating those requirements, the court must accept the defendant's "version of the facts," *Willingham*, 395 U.S. at 409, applying the ordinary civil pleading standard for federal complaints, *Dart Cherokee Basin Operating Co.* v. *Owens*, 574 U.S. 81, 87 (2014).

2. Federal-officer removal originated in response to state resistance to federal wartime authority. During the War of 1812, New England shipowners filed state-court claims against federal customs officials enforcing an unpopular trade embargo with England. *Watson*,

551 U.S. at 147. In response, Congress authorized customs officials "or any other person aiding or assisting" them to remove state-court actions "for any thing done by virtue of [the customs laws] or under colour thereof." Act of Feb. 4, 1815, ch. 31, § 8, 3 Stat. 198. That statute was "[o]bviously * * * an attempt to protect federal officers from interference by hostile state courts." *Willingham*, 395 U.S. at 405. The Civil War and its lead-up prompted additional removal statutes, *id.* at 405-406, which likewise served to "'protect[]'" the federal government "'in the exercise of its constitutional powers'" lest a state court "paralyze the operations of the government," *Tennessee* v. *Davis*, 100 U.S. 257, 263 (1880) (quoting *Martin* v. *Hunter's Lessee*, 14 U.S. 304, 363 (1816)).

Starting in 1948, Congress authorized "[a]ny officer of the United States or any agency thereof, or any person acting under him," to remove a civil or criminal case "for any act under color of such office." Act of June 25, 1948, ch. 646, § 1442(a)(1), 62 Stat. 938. That language, which continued largely unchanged for over 60 years, required the defendant to "show a nexus, a '"causal connection" between the charged conduct and asserted official authority.'" *Jefferson County* v. *Acker*, 527 U.S. 423, 431 (1999) (quoting *Willingham*, 395 U.S. at 409).

In 2011, Congress further expanded removal to state-court suits "for *or relating to* any act under color of [federal] office." 28 U.S.C. 1442(a)(1) (emphasis added). That amendment was "intended to broaden the universe of acts" supporting removal. H.R. Rep. No. 17, 112th Cong., 1st Sess., Pt. 1, at 6 (2011) (House Report).

B. World War II–Era Oil Production

This case involves the removal of suits challenging the production of crude oil used to make aviation gasoline for the federal government during World War II.

1. "World War II, from beginning to end, was a war of oil." Petroleum Admin. for War, *A History of the Petroleum Administration for War, 1941-1945*, at 1 (John W. Frey & H. Chandler Ide eds., 1946) (*PAW History*). Over the course of the war, Allied forces consumed seven billion barrels of oil—six billion of which came from American wells. *Ibid.*

To produce that quantity of oil and "accommodate[] [it] to the needs of the Nation and the national defense program," President Roosevelt created the Office of the Petroleum Coordinator for National Defense, later renamed the Petroleum Administration for War (PAW). 6 Fed. Reg. 2760, 2760 (June 7, 1941); see Exec. Order No. 9276, 7 Fed. Reg. 10,091 (Dec. 4, 1942). The agency's "primary purpose" was to "furnish[] central direction to the oil industry during the war period." *Petroleum Investigation (Gasoline and Rubber): Hearings Before a Subcomm. of the House Comm. on Interstate & Foreign Commerce*, 77th Cong., 2d Sess. 6 (1943) (testimony of Ralph K. Davies, Deputy Petroleum Coordinator).

PAW "exercised substantial wartime regulatory control over almost every aspect of the petroleum industry." *Shell Oil Co.* v. *United States*, 751 F.3d 1282, 1285 (Fed. Cir. 2014). PAW identified how much oil was needed for the war effort, what resources the oil industry needed to produce that oil, and how to get that oil where it needed to go. *PAW History* 70, 75, 110. PAW meticulously regulated oil production down to the spacing and angle of wells and how much producers could spend on oil lines. *E.g.*, 8 Fed. Reg. 3955, 3956-3957

(Mar. 31, 1943); 8 Fed. Reg. 14,315, 14,315 (Oct. 21, 1943). And PAW controlled the industry's access to raw materials, such as steel, requiring permission from Washington for large orders. *PAW History* 163-165.

PAW routinely directed what oil went where, treating "the refineries of the country * * * as a unit, to give maximum yield of the products most urgently needed." *Wartime Petroleum Policy Under the Petroleum Administration for War: Hearings Before a Special Comm. Investigating Petroleum Resources*, 79th Cong., 1st Sess. 12 (1946) (testimony of Ralph K. Davies, Deputy Petroleum Administrator for War) (*Wartime Petroleum Policy*). And PAW oversaw outputs, including by negotiating military contracts for refined petroleum products alongside the Defense Supplies Corporation. *PAW History* 204. In sum, PAW oversaw "a complete reorganization of the American oil industry" under "federal direction." *Oil Operations Geared to War Conditions Through PAW*, Oil Wkly., Jan. 31, 1944, at 179, reprinted in 23-30294 C.A. ROA 36,045.

2. The "'most critically needed refinery product' during World War II" was aviation gasoline, or avgas. *Shell Oil*, 751 F.3d at 1285 (citation omitted). Avgas allowed planes "to fly faster and higher, with improved rates of climb and higher payload carrying capacity." *Ibid.* Avgas is what "winged our fighters over Africa and Europe" and "powered our bombers from Midway to Hiroshima." *PAW History* 193.

In an order signed two days after Pearl Harbor, the Petroleum Coordinator for National Defense—Secretary of the Interior Harold Ickes—declared it "essential, in the national interest, that the supplies of all grades of aviation gasoline for military, defense and essential civilian uses be increased immediately to the

maximum." 6 Fed. Reg. 6433, 6433 (Dec. 16, 1941). He directed the preparation of plans "to increase to a maximum the production of all grades of aviation gasoline," including plans for "the use of all sources of the components of such gasoline," such as crude oil. *Id.* at 6433-6434. PAW thereafter strove to "totally mobilize[] and integrate[]" "the entire American oil industry" into "one vast national refinery devoted to maximum production of 100 octane [aviation] gasoline." Public Relations Div., PAW, *A Handbook on 100 Octane Number Aviation Fuel: 100 Octane Production Program* 1 (Nov. 27, 1943), reprinted in 23-30294 C.A. ROA 35,178.

PAW's avgas program was "a spectacular success." *PAW History* 213. The United States achieved a 1185% increase in avgas production during the war, Pet. App. 44 (Oldham, J., dissenting), with that output providing "the lifeblood of the United Nations in the air," *Wartime Petroleum Policy* 12.

C. The Present Controversy

1. Petitioners are oil and gas companies whose predecessors produced crude oil along the Louisiana coast during World War II. Pet. App. 9-10. In each consolidated case, at least one petitioner refined avgas for the federal government during the war using some crude oil that the same company produced in Louisiana. *Ibid.*

Beginning in 2013, coastal parishes in Louisiana, including the two respondent parishes, filed 42 state-court lawsuits against oil and gas companies, including petitioners, alleging violations of Louisiana's State and Local Coastal Resources Management Act of 1978 (SLCRMA), La. Rev. Stat. Ann. §§ 49:214.21 *et seq.* (2023 & Supp. 2025). Pet. App. 3. The SLCRMA is part of a cooperative-federalism program administered by the National Oceanic and Atmospheric Administration,

which allows participating States to manage their coastal zones with federal support. See Coastal Zone Management Act of 1972, 16 U.S.C. 1451 *et seq.*

In each suit, which respondents Louisiana and its Department of Energy and Natural Resources later joined, the plaintiffs allege that the defendant companies produced oil along the Louisiana coast without valid "coastal use permits." Pet. App. 3-4 (citation omitted). Although the SLCRMA does not require permits for uses that were "legally commenced" before 1980, La. Rev. Stat. Ann. § 49:214.34.C(2) (2023), the plaintiffs contend that the defendants' activities were not legally commenced because they allegedly deviated from "prudent industry practices," Pet. App. 6.

The defendants' initial attempts at removing the cases to federal court were unsuccessful, and the cases proceeded in state court. Pet. App. 5. In 2018, the plaintiffs produced an expert report clarifying that the suits challenge some activities that began during World War II. *Id.* at 5-6. Specifically, the report faulted the defendants for failing to build saltwater reinjection wells and for using canals rather than overland roads, vertical rather than directional drilling, and earthen pits rather than steel tanks. *Id.* at 19-21. The report also at least "indirectly" challenged "the rate at which [the defendants] extracted crude oil" since some of the plaintiffs' preferred practices "would have slowed [the defendants'] production rates during World War II." *Id.* at 21.

The defendants again removed to the United States District Courts for the Eastern and Western Districts of Louisiana, asserting that PAW's pervasive supervision of the wartime oil industry supported federal-officer removal. See Pet. App. 6. The district courts

each designated a lead case (not the cases here) and remanded those cases to state court. *Ibid.* The defendants in those cases did not identify any federal contract and instead relied on PAW's industry-wide regulation to support removal. See *Plaquemines Parish* v. *Chevron USA, Inc.* (*Plaquemines II*), No. 22-30055, 2022 WL 9914869, at *1 (5th Cir. Oct. 17, 2022) (per curiam), cert. denied, 143 S. Ct. 991 (2023).

After one set of appeals, in which the lead cases were sent back to the district courts for further consideration following an intervening en banc decision, the court of appeals affirmed. Pet. App. 6-8. The court concluded that the defendants were not "'acting under'" a federal officer because they had not identified any government contracts and PAW's wartime control of the oil industry "merely" showed compliance with "federal regulations," not "'help or assistance'" to the federal government. *Plaquemines II*, 2022 WL 9914869, at *3 (quoting *Watson*, 551 U.S. at 152).

2. The district courts then reopened the two cases here. Pet. App. 9-10. Petitioners contended that, unlike the defendants in *Plaquemines II*, they were "acting under" a federal officer given their federal contracts to refine avgas. *Ibid.* Both district courts rejected that argument and remanded the cases. *Ibid.*

A divided court of appeals affirmed. Pet. App. 1-63. The majority agreed with petitioners that their avgas-refining contracts made this an "'archetypal case' of a defendant 'acting under' a federal officer." *Id.* at 15-16 (citations omitted). But the majority concluded that these suits were not "for or relating to" acts under color of federal office because they challenge oil production, not refining. 28 U.S.C. 1442(a)(1); Pet. App. 17-38.

The majority analyzed the "relating to" requirement by asking whether "the relevant federal directives in [petitioners'] refinery contracts" were sufficiently "'connected or associated with'" "the conduct challenged in [respondents'] complaints." Pet. App. 19. That test was not met, the majority held, given "[t]he lack of *any* contractual provision pertaining to oil production." *Id.* at 30. The majority declined to consider PAW's control of the wartime oil industry and "limit[ed]" its analysis "to directives in [petitioners'] federal refining contracts." *Id.* at 26. If anything, the majority asserted, PAW's control over the oil supply "severed any connection between [petitioners'] production and refinement activities." *Id.* at 36.

Judge Oldham dissented. Pet. App. 40-63. He agreed that petitioners "acted under" a federal officer but would have also held that these suits "relate to" acts under color of federal office. *Id.* at 40. In his view, oil production is "undeniably 'related to'" avgas refining since "crude oil is an indispensable, necessary, and direct step to producing avgas." *Id.* at 45-46. That is particularly so here, Judge Oldham explained, because respondents' preferred practices would have slowed output and "hampered the federal interest in refined avgas explicitly outlined in the contracts." *Id.* at 52. Judge Oldham also rejected the majority's view that PAW's control over the oil supply "'severed' the causal chain." *Id.* at 54 (citation omitted). To the contrary, PAW "simply insert[ed] the Government into another layer of control." *Id.* at 55.

SUMMARY OF ARGUMENT

A. To invoke the federal-officer-removal statute, a defendant must be a "person acting under" a federal officer. 28 U.S.C. 1442(a)(1). A defendant meets that re-

quirement when he assists a federal officer in carrying out his official duties while subject to the federal officer's supervision, guidance, or control. *Watson* v. *Philip Morris Cos.*, 551 U.S. 142, 151-152 (2007).

A suit must also be "for or relating to any act under color of [federal] office." 28 U.S.C. 1442(a)(1). An act occurs under color of federal office when it is causally connected to asserted federal authority. *Willingham* v. *Morgan*, 395 U.S. 402, 409 (1969). And "relating to" means to have a connection with or reference to. Putting the two together, eligible defendants may remove suits that have some connection with or reference to any act that is causally connected to asserted federal authority. To identify the types of connections that qualify, courts should consider the objectives of federal-officer removal—most importantly, protecting federal operations from state-court interference.

B. Petitioners' avgas refining supports removal of these suits.

1. The court of appeals correctly held that petitioners are "person[s] acting under" federal officers. 28 U.S.C. 1442(a)(1). Petitioners assisted the federal government by providing a critical military product—avgas—under detailed federal contracts within a wartime oil industry that was heavily supervised by the federal government in relevant respects.

Petitioners did not need to "act[] under" a federal officer while engaged in the challenged conduct, as respondents appear to contend. Otherwise, the "person acting under" requirement—which identifies *who* may remove—would nullify Congress's broader specification of *which* suits may be removed—those "for or relating to any act under color of [federal] office." 28 U.S.C. 1442(a)(1).

2. These suits are ones "relating to" petitioners' avgas refining. Respondents challenge the way petitioners produced crude oil—the principal component of avgas. PAW managed the oil industry as a vertically integrated whole because crude oil and refinery outputs like avgas were inherently connected. Petitioners' contracts reflected that link by tying avgas prices to the price of crude. And the connection was even tighter because the crude oil from some of petitioners' oil fields was especially well suited for making avgas. Removal would further the statute's objectives by providing a federal forum for these challenges to petitioners' wartime acts to assist the federal government.

3. In holding otherwise, the court of appeals incorrectly demanded a specific federal directive related to oil production in petitioners' contracts. The test for federal-officer removal is not so limited. The statutory text requires a relationship between the plaintiff's suit and the defendant's "act under color of [federal] office," 28 U.S.C. 1442(a)(1)—language which this Court has interpreted to require that the relevant act be causally connected to asserted federal authority. Requiring a specific directive, much less one in a contract, has never been the rule.

The court of appeals also erred in treating PAW—a federal agency—as severing the link between petitioners' production and refining activities. An additional layer of federal involvement should strengthen, not weaken, the case for removal. To the extent that removal would create an asymmetry with related cases that the Fifth Circuit previously remanded, the answer should have been to permit removal in those cases, not to deny it here.

C. PAW's supervision of petitioners' production activities independently supports removal. The federal government extensively regulated the wartime oil industry, including some of the production practices for which respondents bring these suits. While regulation alone does not make someone a "person acting under" a federal officer, the regulation here suffices because it enlisted petitioners to *assist* federal officers in the national war effort.

ARGUMENT

PETITIONERS ARE PERSONS ACTING UNDER A FEDERAL OFFICER WHO FACE SUITS RELATING TO ACTS UNDER COLOR OF FEDERAL OFFICE

Private persons who assist and are supervised by federal officers in carrying out their official duties may invoke the federal-officer-removal statute, 28 U.S.C. 1442(a)(1). To obtain removal, such a person must show that the suit is "for or relating to any act under color of [federal] office," *ibid.*—in other words, that the suit has a connection with or refers to any act causally connected to asserted federal authority. Petitioners satisfy those requirements to remove these suits targeting their World War II–era oil-production activities. Those activities are connected to petitioners' actions under federal officers to refine some of that same oil into avgas for the federal government. Alternatively, those production activities are themselves acts under color of federal office given the government's pervasive supervision of the wartime oil industry to further federal wartime objectives.

A. Persons Assisting And Supervised By A Federal Officer May Remove Suits That Have A Connection With Or Reference To Any Act Causally Connected To Asserted Federal Authority

Section 1442(a)(1) authorizes the removal of any state-court civil or criminal action against "[t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office." That text imposes two requirements pertinent here.

First, the statute identifies *who* may seek removal: "[t]he United States," a federal "agency," a federal "officer," or—relevant here—"any person acting under that officer." 28 U.S.C. 1442(a)(1). A private person "'act[s] under'" a federal officer when he acts in "an effort to *assist*, or to help *carry out*, the duties or tasks of the federal superior" while under the officer's "'subjection, guidance, or control.'" *Watson* v. *Philip Morris Cos.*, 551 U.S. 142, 151-152 (2007) (citation omitted). While "not limitless," the "'acting under'" standard is "broad." *Id.* at 147.

For example, an army corporal detailed to assist a deputy United States marshal in making an arrest "lawfully assist[ed]" the marshal "in the performance of his official duty" and could therefore remove a state murder prosecution arising from the arrest. *Davis* v. *South Carolina*, 107 U.S. 597, 600 (1883). Likewise, a chauffeur for prohibition agents met the "acting under" requirement because he "was assisting them and was acting under the authority of the prohibition director." *Maryland* v. *Soper (No. 1)*, 270 U.S. 9, 22 (1926); see *Watson*, 551 U.S. at 150. Conversely, cigarette makers subject to extensive federal regulation were not "acting

under" a federal officer because "simply *complying* with the law" does not demonstrate "the help or assistance necessary to bring a private person within the scope of the statute." *Watson*, 551 U.S. at 152.

Second, the statute identifies *which* suits may be removed: those "for or relating to any act under color of such office." 28 U.S.C. 1442(a)(1). To satisfy that requirement, the defendant must identify an "act under color of [federal] office" and further show that the plaintiff's suit is "for or relating to" that act. *Ibid.*

The "act under color of such office" requirement evokes the statute's earlier reference to a "person acting under" a federal officer. 28 U.S.C. 1442(a)(1). But here, Congress inserted "color of," indicating that removal is not limited to acts dictated by a federal superior. Instead, "the 'color of office' test" requires only "a showing of a 'causal connection' between the charged conduct and asserted official authority." *Willingham* v. *Morgan*, 395 U.S. 402, 409 (1969) (quoting *Soper*, 270 U.S. at 33). Such a connection will be present, for instance, when a federal officer takes an act "in the performance of his duties." *Mesa* v. *California*, 489 U.S. 121, 135 (1989).

For example, a federal prison warden and doctor accused of assaulting a prisoner (an allegation they denied) could remove the prisoner's civil suit. *Willingham*, 395 U.S. at 410. Because the officials' "only contact with [the prisoner] occurred inside the penitentiary, while they were performing their duties," the officials had "demonstrated the required 'causal connection'" to their federal office. *Id.* at 409. Likewise, a federal revenue collector who killed a suspect during a raid could remove a state murder prosecution because his

acts occurred "in the discharge of his duty as a Federal officer." *Tennessee* v. *Davis*, 100 U.S. 257, 262 (1880).

Conversely, prohibition agents and their chauffeur could not remove state murder prosecutions when they failed to show that the prosecutions had anything to do with their official duties. *Soper*, 270 U.S. at 35. Although the agents allegedly came upon the victim while returning from a raid, their removal petition did not assert that their "acts or [their] presence at the place in performance of [their] official dut[ies] constitute[d] the basis, though mistaken or false, of the state prosecution." *Id.* at 33; see *id.* at 24. Absent that causal link to official duties, the agents could not show that the suit targeted acts "under color of federal authority." *Id.* at 33.

Before 2011, a removing defendant had to show that a suit was "for" the act under color of federal office. 28 U.S.C. 1442(a)(1) (2006). But in 2011, Congress amended the statute to permit the removal of a suit for "or relating to" such an act. Pub. L. No. 112-51, § 2(b), 125 Stat. 545. The insertion of "or relating to" self-evidently "broaden[ed] the universe of acts that enable Federal officers to remove to Federal court." House Report 6.

As the state respondents agree (Br. in Opp. 9), "the ordinary meaning of" "'relating to'" is "broad." *Morales* v. *Trans World Airlines, Inc.*, 504 U.S. 374, 383 (1992). The phrase means "to stand in some relation; to have bearing or concern; to pertain; refer; to bring into association with or connection with." *Ibid.* (quoting *Black's Law Dictionary* 1158 (5th ed. 1979)). This Court has thus interpreted the Employee Retirement Income Security Act of 1974 (ERISA), which preempts laws "relate[d] to" ERISA plans, 29 U.S.C. 1144(a), to preempt laws which have "a connection with or refer-

ence to such a plan," *Egelhoff* v. *Egelhoff ex rel. Breiner*, 532 U.S. 141, 146-147 (2001) (citation omitted). And this Court has interpreted "relat[ing] to" the same way for similar preemption clauses in the Airline Deregulation Act of 1978, 49 U.S.C. 41713(b)(1), and the Federal Aviation Administration Authorization Act of 1994, 49 U.S.C. 14501(c)(1). *Morales*, 504 U.S. at 384; *Rowe* v. *New Hampshire Motor Transp. Ass'n*, 552 U.S. 364, 370 (2008).

A similar definition logically applies here. "[W]hen judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute indicates, as a general matter, the intent to incorporate its judicial interpretations as well." *Rowe*, 552 U.S. at 370 (citation omitted). In 2011, Congress inserted "relating to" in the federal-officer-removal statute against the backdrop of that phrase's well-settled meaning in the preemption context—an area, like removal, where federal authority supplants potentially inconsistent state authority. In doing so, Congress presumptively incorporated the same broad understanding of "relating to."

That inference is particularly apt given that Congress layered "relating to" on top of an already broad causal-connection test. Congress also enacted the 2011 amendment following this Court's repeated instruction that the federal-officer-removal statute be "liberally construed," *Colorado* v. *Symes*, 286 U.S. 510, 517 (1932), and not "frustrated by a narrow, grudging interpretation," *Willingham*, 395 U.S. at 407. Nothing in Section 1442(a)(1)'s text or context suggests that Congress intended an unusually narrow definition of "relating to."

Similar to the analysis in preemption cases, a court applying the "relating to" requirement should ask

whether the suit "has a connection with or reference to" an act causally connected to asserted federal authority. *Egelhoff*, 532 U.S. at 147 (citation omitted). In practice, those two layers of connections reduce to whether the suit is connected—in a broad sense—to asserted federal authority. An "indirect" connection can support removal, but a "tenuous, remote, or peripheral" one cannot. *Rowe*, 552 U.S. at 370-371 (citations omitted).*

To avoid potentially "infinite connections," courts should be guided by "the objectives of" federal-officer removal, just as statutory objectives guide the analysis in preemption cases. *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.*, 514 U.S. 645, 656 (1995); accord *Rowe*, 552 U.S. at 371 (considering "Congress' deregulatory and pre-emption-related objectives"). *Watson* synthesized the objectives of federal-officer removal four years before the 2011 amendment: "[T]he removal statute's 'basic' purpose is to protect the Federal Government from the interference with its 'operations'" that could arise from unsympathetic state courts. 551 U.S. at 150 (quoting *Willingham*, 395 U.S. at 406). State courts might exhibit "'local prejudice' against unpopular federal laws or federal officials," "impede through delay" federal law enforcement, or "deprive federal officials of a federal forum in which to assert federal immunity defenses." *Ibid.* (quoting *Soper*, 270 U.S. at 32). Where removal would

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* Because the "relating to" requirement is satisfied when the suit refers to asserted federal authority, the United States has argued in a case currently pending before the Second Circuit that the requirement is satisfied when evidence of the President's official acts is used in a state criminal prosecution. See U.S. Amicus Br. at 12-14, *New York* v. *Trump*, No. 24-2299 (2d Cir. filed May 27, 2025).

further those objectives, courts should more readily find the requisite connection.

B. Petitioners' Avgas Refining Supports Removal

Applying the principles above, petitioners have adequately alleged that respondents' suits challenging their oil-production activities are actions "relating to" "act[s] under color of" federal office to refine avgas. 28 U.S.C. 1442(a)(1).

1. Petitioners' wartime avgas contracts make them "person[s] acting under" a federal officer

a. The court of appeals correctly held that petitioners present an "'archetypal case' of a defendant 'acting under' a federal officer." Pet. App. 15 (citation omitted).

To "'act[] under'" a federal officer, a private party must "assist, or * * * help carry out, the duties or tasks of the federal superior." *Watson*, 551 U.S. at 152 (emphasis omitted). While not all federal contractors will satisfy that test, "[w]artime production is the paradigmatic example for th[e] special relationship" needed to satisfy the "'acting under'" element. *Board of County Comm'rs* v. *Suncor Energy (U.S.A.), Inc.*, 25 F.4th 1238, 1253 (10th Cir. 2022), cert. denied, 143 S. Ct. 1795 (2023). In *Watson*, this Court observed that courts of appeals have found the "'acting under'" requirement met for contractors who "provid[ed] the Government with a product that it used to help conduct a war" and which the government "at least arguably" would otherwise have had to produce for itself. 551 U.S. at 153-154 (discussing *Winters* v. *Diamond Shamrock Chem. Co.*, 149 F.3d 387 (5th Cir. 1998), cert. denied, 526 U.S. 1034 (1999)).

Petitioners' avgas refining fits that description to a T. Petitioners contracted with the Defense Supplies

Corporation, Pet. App. 175, a federal instrumentality responsible for acquiring "strategic or critical materials and supplies of all kinds, which may be necessary or appropriate in connection with the national-defense program of the Government," 6 Fed. Reg. 2972, 2972 (June 19, 1941); see *Defense Supplies Corp.* v. *Lawrence Warehouse Co.*, 336 U.S. 631, 633 (1949). By providing avgas—the "'most critically needed refinery product' during World War II," *Shell Oil Co.* v. *United States*, 751 F.3d 1282, 1285 (Fed. Cir. 2014) (citation omitted)—petitioners helped the Defense Supplies Corporation fulfill its wartime mission.

Petitioners also entered "an unusually close" relationship with the government, "involving detailed regulation, monitoring, or supervision." *Watson*, 551 U.S. at 153. Petitioner Chevron's predecessor, the Texas Company (Texaco), agreed to work "day and night" to quadruple its production capacity within 16 months. Pet. App. 151; see J.A. 116-117 (discussing further expansion in subsequent contract). And the government agreed to loan Texaco $16.25 million—nearly $330 million today—to complete that expansion. See Pet. App. 162. Texaco also gave the United States the right "at any time to purchase" all of the refinery's excess avgas and promised to "operate the facilities at full capacity" if necessary. *Id.* at 155-156. And the United States could compel Texaco to buy components from other refineries for which Texaco could seek federal reimbursement. *Id.* at 160; see also J.A. 168-196 (similar contract between the Defense Supplies Corporation and Shell).

Beyond those contractual provisions, PAW was "the virtual czar of 100-octane in the United States," instructing the industry "'to whatever extent may be necessary to facilitate the maximum production of all grades of avi-

ation gasoline.'" *PAW History* 199 (quoting 6 Fed. Reg. 6433, 6434 (Dec. 16, 1941)). PAW "[c]ontrol[led] all transfers within the petroleum industry of" the components of avgas. 9 Fed. Reg. 8933, 8933 (July 25, 1944). PAW told each producer how to blend its avgas, where to get the components, and where to ship its outputs. *PAW History* 200; see, *e.g.*, 6 Fed. Reg. 5013, 5017 (Oct. 2, 1941); 6 Fed. Reg. 6329, 6329 (Dec. 10, 1941). PAW even instructed refineries to share intellectual property to make avgas production more efficient. 7 Fed. Reg. 41, 42 (Jan. 1, 1942); 7 Fed. Reg. 6393, 6393 (Aug. 14, 1942). In effect, the wartime petroleum industry operated as "one huge refinery" "[u]nder PAW direction." *PAW History* 192.

b. Respondents do not dispute that petitioners were "acting under" a federal officer when they refined avgas for the federal government. But respondents appear to contend (La. Br. in Opp. 20; Plaquemines Br. in Opp. 29-30) that petitioners must further show that they were "acting under" a federal officer while engaged in the specific conduct challenged by the suit. Here, respondents say (La. Br. in Opp. 20), their suits are "based on [petitioners'] exploration and production activities" and petitioners "were *not* acting under a United States officer" in producing crude oil.

The court of appeals correctly rejected that argument, which "impermissibly conflates" the "acting under" and "for or relating to" elements of federal-officer removal. Pet. App. 16 (citations and internal quotation marks omitted); 28 U.S.C. 1442(a)(1). As explained, pp. 15-16, *supra*, the "acting under" element answers the *who* question: A "*person* acting under [a federal] officer" can invoke the removal statute just like a federal officer, a federal agency, or the United States itself.

28 U.S.C. 1442(a)(1) (emphasis added). The "for or relating to" element answers *which* suits may be removed: those "for or relating to any act under color of such office." *Ibid.* The two elements are connected insofar as the suit must "relat[e] to" an "*act under* color of [federal] office." *Ibid.* (emphasis added). But nothing in the text requires that the defendant "act[] under" the federal officer when engaged in the specific challenged conduct.

Otherwise, Congress's specification of a different, broader test for which acts support removal would be a nullity. In defining which suits support removal, Congress went beyond suits "for" an "act under" federal officers to suits "for *or relating to* any act under *color of* [federal] office." 28 U.S.C. 1442(a)(1) (emphases added). Respondents' approach would "simply read[] the words 'relating to' out of the statute," *Morales*, 504 U.S. at 385, and would do the same for "color of."

2. Respondents' suits are ones "relating to" petitioners' avgas refining

Petitioners have also adequately asserted that respondents' suits target conduct "relating to an[] act under color of [federal] office." 28 U.S.C. 1442(a)(1).

a. The statutory text first requires an "act under color of [federal] office," 28 U.S.C. 1442(a)(1)—*i.e.*, an act with a "'causal connection'" to "asserted official authority," *Willingham*, 395 U.S. at 409 (citation omitted); see pp. 16-17, *supra*. Petitioners' avgas refining satisfies that standard. Refining avgas plainly has a causal connection to detailed federal contracts governing the production and sale of that same avgas.

The key question is whether respondents' suits are ones "relating to" that avgas refining. Recall the core allegations at issue: Petitioners engaged in various oil-

exploration and oil-production practices during World War II that deviated from "prudent industry practices." Pet. App. 6; see *id.* at 19-21. Petitioners' activities along the Louisiana coast, respondents therefore allege, were not "legally commenced" and required a permit after 1980. *Id.* at 3 (citation omitted); see *id.* at 5-6. Those allegations do not expressly "reference" petitioners' avgas refining. *Egelhoff*, 532 U.S. at 147 (citation omitted). But they have a sufficient "connection with" petitioners' refining to support removal. *Ibid.* (citation omitted).

That connection is evident as a matter of basic economics and chemistry. Crude oil is the central component of avgas. To oversimplify, petitioners first refined crude oil into base stock, which they further refined into high-octane avgas. See *PAW History* 194 (diagram of refining process). As Judge Oldham explained, petitioners "could not simply snap their fingers and, voilà, make avgas. They had to make it out of *something*, and that something was crude oil." Pet. App. 45. The majority therefore recognized that petitioners' "refining contracts indirectly required increased amounts of crude oil" and that avgas refining had "some relation to oil production." *Id.* at 28, 38; see *id.* at 28 ("[C]rude oil is a necessary component of avgas."). On the facts here, that should have sufficed. An "indirect" connection, after all, is still a connection. *Rowe*, 552 U.S. at 370 (citation omitted).

The connection between oil production and avgas refining was obvious to those steeped in the wartime oil industry. As the government's official 1946 history of PAW explained, "[i]n so closely interrelated an industry as oil," "synchronization" between "refinery throughput[s]," "crude oil" production, and transportation "was

indispensable." *PAW History* 110. PAW therefore directed crude-oil supplies to the "refineries that were in the greatest need of them," getting "*specific* volumes of crude to *specific* refiners * * * to assure maximum output of war products." *Id.* at 215. "Every part of the wartime petroleum program was interlocked with another part," from "refineries" to transportation networks to "producing oil fields." *Id.* at 158.

Petitioners' federal avgas contracts expressly linked their refining to oil production. The contracts tied the price of avgas to the price of crude, Pet. App. 157-159; J.A. 174-175, reflecting crude's role as the main input for avgas. The government also promised to pay any new "taxes on crude petroleum" if the government could not obtain an exemption. Pet. App. 170; J.A. 185; see Pet. App. 170-171; J.A. 186. Although petitioners were not contractually obligated to use their *own* crude to make avgas, producing crude was an obvious way for a vertically integrated oil company to fulfill its refining contracts.

Further tightening the connection, some of the oil fields at issue were particularly well suited to avgas production. Not all crude oil is alike. As one PAW official observed, "[s]ome crudes are well adapted to making aviation fuel, some are not." Max W. Ball, *Fueling a Global War*, 45 Ohio J. Sci. 29, 31 (1945). PAW therefore had to coordinate "production development * * * in harmony with the refining branch of the industry" to supply not only "enough crude but the kinds needed for aviation gasoline and other war products." *PAW History* 176. PAW sought the "maximum economic recovery" from wells that were "especially desirable" for avgas. 6 Fed. Reg. 5536, 5537 (Oct. 30, 1941). And PAW designated some of petitioners' fields "'Critical Fields

Essential to the War Program,' in part because they produced crude oil that was particularly suited for making avgas." Pet. App. 23 n.64. That designation underscores the close connection between petitioners' production and refining activities.

b. Permitting removal would align with the recognized objectives of federal-officer removal. Oil production and avgas played a vital role in World War II. A month after Pearl Harbor, PAW declared that the "essential" "national interest" in a "maximum" supply of avgas required "ready and adequate supplies of aviation grade crude petroleum." 7 Fed. Reg. 164, 164 (Jan. 8, 1942). For a State and its localities to question the "pruden[ce]" of wartime oil production 80 years later, Pet. App. 6, threatens to inflict the sort of "interference with [federal] 'operations'" that the removal statute is designed to avoid, *Watson*, 551 U.S. at 150 (citation omitted). Whether or not that threat ultimately materializes, Congress offered a neutral federal forum to guard against the mere potential of "'local prejudice' against unpopular federal laws or federal officials." *Ibid.* (citation omitted).

At the same time, removal of these suits would not affect "the rights of the parties" or "alter the underlying law to be applied." *Arizona* v. *Manypenny*, 451 U.S. 232, 242 (1981). If respondents' claims survive motions practice, they will be heard by a jury of Louisianians, applying Louisiana law, in Louisiana. The federal courthouse in New Orleans where the lead case would be tried is less than six miles from Plaquemines Parish. While the parishes criticize (Br. in Opp. 7) the delay engendered by the removal litigation, that delay is as much a product of their choice to fight for a state forum as it is petitioners' choice to seek a federal one.

Contrary to the State's suggestion, removal would not render the "'for or relating to'" requirement "meaningless." Br. in Opp. 20; accord Pet. App. 33-35. When applying a parallel test in the preemption context, this Court has imposed meaningful constraints and found that various connections invoked by defendants were insufficient for laws to be "relate[d]" or "relating" to the necessary subject. *E.g.*, *Rutledge* v. *Pharmaceutical Care Mgmt. Ass'n*, 592 U.S. 80, 86-88 (2020) (collecting ERISA cases); *American Airlines, Inc.* v. *Wolens*, 513 U.S. 219, 232 (1995).

The phrase "'relating to'" inherently raises case-specific questions about where "to draw the line." *Wolens*, 513 U.S. at 223, 234 (citation omitted). But this case clearly falls on the removal side of that line. Permitting removal based on the relatively close nexus between petitioners' oil production and refining would not open the floodgates to "virtually every remote and tenuous activity" conducted by a federal contractor. Contra La. Br. in Opp. 21.

3. The court of appeals unduly cabined the "relating to" requirement

In ordering remand, the court of appeals made two key legal errors.

First, the court of appeals incorrectly asked whether respondents' suits are related to "the relevant federal directives in [petitioners'] refinery contracts," rather than to the refining itself. Pet. App. 19. That framing was fatal, in the court's view, given "the lack of any reference, let alone direction, pertaining to crude oil production in [petitioners'] federal contracts." *Id.* at 33.

But the federal-officer-removal statute does not require "a specific government direction." *Sawyer* v. *Foster Wheeler LLC*, 860 F.3d 249, 258 (4th Cir. 2017). As

this Court has observed in the preemption context, a law can "'relate to'" a forbidden topic without "specifically address[ing]" it. *Morales*, 504 U.S. at 386 (citation omitted).

Moreover, the relevant topic to which the suit must relate is an "act under color of [federal] office," 28 U.S.C. 1442(a)(1), not a specific directive in a federal contract. Even before the 2011 amendment, this Court had interpreted the "color of office" language to require only a "causal connection" to asserted federal authority, not a specific direction. *Willingham*, 395 U.S. at 409 (citation omitted). In *Willingham*, the defendant prison warden and doctor obviously had not received a directive to assault a prisoner. *Id.* at 403. Yet the alleged assault supported removal because the allegations were causally connected to the defendants' duties at the prison. *Id.* at 409. Likewise, a federal revenue officer accused of murdering a suspect acted "under color of his office" even though he had no directive to commit murder. *Tennessee* v. *Davis*, 100 U.S. at 261; see *id.* at 259 (certified facts). Despite repeating its "federal directive[]" requirement ten times, Pet. App. 19, 21, 23-24, 26, 31, 34, 36, 38, the court of appeals did not explain how that requirement is consistent with the statutory text and with this Court's precedents.

The court of appeals relatedly erred in limiting its analysis to petitioners' refining contracts and declining to consider PAW's control over the wartime oil industry. Pet. App. 23-26. Noting that this Court has held that "complying with federal regulations" does not satisfy the "'act[ing] under'" element, the court of appeals reasoned that regulatory compliance should not support the "'relating to'" element either. *Id.* at 18, 24 (citing *Watson*, 551 U.S. at 153).

But federal regulation is not rendered irrelevant simply because mere regulation is insufficient by itself to trigger removal. A federal officer may issue directives to a subordinate in various forms, whether through a regulation, a guidance document, a telephone call, or an email. As petitioners observe (Br. 35-36), a government contract may not need to address a given topic because the subject matter is already addressed by regulation or otherwise. Nothing in the text of Section 1442(a)(1) suggests that courts must ignore directions that are not memorialized in a contract. This Court has often found the "acting under" element met without identifying a specific contract. *E.g.*, *Soper*, 270 U.S. at 22; *Davis* v. *South Carolina*, 107 U.S. at 600.

Second, the court of appeals erred in treating PAW as an intervening actor that "severed any connection" between petitioners' oil-production and oil-refining activities. Pet. App. 36. As the court noted, PAW "controlled the distribution and transportation of produced crude oil from the fields to specific refineries based on various factors that would maximize the output of war products." *Id.* at 35.

That extensive federal involvement in the distribution of crude oil does not lessen the connection between petitioners' refining and the production activities that respondents challenge. Without PAW, vertically integrated oil companies like petitioners may well have used their own crude to make avgas. That the federal government often compelled them to do so only underscores the connection. Given that the "'basic' purpose" of federal-officer removal is to avoid "interference" in the federal government's "'operations,'" *Watson*, 551 U.S. at 150 (citation omitted), it would be perverse to

penalize petitioners because they faced another layer of federal supervision beyond their contracts.

The court of appeals noted that it had previously remanded related cases against vertically integrated oil companies who could not prove that PAW sent them their own crude to refine. Pet. App. 36-37; see *Plaquemines Parish* v. *Chevron USA, Inc.* (*Plaquemines II*), No. 22-30055, 2022 WL 9914869 (5th Cir. Oct. 17, 2022) (per curiam), cert. denied, 143 S. Ct. 991 (2023). The court deemed it "illogical and disparate" to treat these cases differently when it was mere "'happenstance'" whether PAW sent each company its own crude. Pet. App. 36-37 (citation omitted); accord Plaquemines Br. in Opp. 4.

But PAW's crude-oil allocations were not mere happenstance. PAW sent "*specific* volumes of crude to *specific* refiners" to maximize war outputs. *PAW History* 215. That petitioners received their own crude may have reflected PAW's judgment that petitioners' crude was well suited to making avgas. See pp. 25-26, *supra*. Regardless, any disparity here results from the court of appeals' erroneous decision in *Plaquemines II*. As explained further below, pp. 30-34, *infra*, PAW's extensive supervision of the wartime oil industry in furtherance of overriding federal objectives should support removal. Denying removal here, where the connection to federal acts is especially clear, would only compound the court of appeals' earlier error.

C. PAW's Supervision Of Wartime Oil Production Independently Supports Removal

Even setting aside petitioners' avgas refining, petitioners were "acting under" PAW when they engaged in the wartime oil-production activities that respondents challenge. 28 U.S.C. 1442(a)(1). Respondents' suits are

therefore necessarily "*for* * * * act[s] under color of [federal] office." *Ibid.* (emphasis added).

1. In the unique wartime context, the oil industry had an "unusually close" relationship with the federal government, "involving detailed regulation, monitoring, or supervision." *Watson*, 551 U.S. at 153. As explained, pp. 6-8, *supra*, PAW "exercised substantial wartime regulatory control over almost every aspect of the petroleum industry." *Shell Oil*, 751 F.3d at 1285; contra Pet. App. 25 (calling this regulation "minimal" without explanation). Government and industry were merged so effectively that it was "frequently difficult to distinguish the[ir] activities." *PAW History* 2. Nevertheless, "it was always the role of Government to determine plans and policies, to direct and supervise operations requisite to their fulfillment, and to assume over-all governmental responsibility for all aspects of the oil program." *Ibid.*

That supervision extended to many of the specific acts that respondents challenge. For example, respondents fault petitioners for using vertically rather than directionally drilled oil wells. Pet. App. 20. But PAW expressly required producers "to maintain a vertical wellbore." 8 Fed. Reg. at 3957; but see 9 Fed. Reg. 7448, 7448 (July 4, 1944) (later allowing directional drilling in Louisiana). Respondents criticize petitioners for using earthen pits rather than steel tanks at wells. Pet. App. 20. But steel was highly controlled during the war, and PAW discouraged the use of steel containers to "the greatest possible degree" given the "urgent" "needs of the defense program." 6 Fed. Reg. 5880, 5880 (Nov. 19, 1941); see p. 7, *supra*. And respondents challenge petitioners' use of canals rather than building overland roads. Pet. App. 19-20. But PAW commanded that "no

asphalt" be used absent government approval for the "paving, surfacing or resurfacing" of "any roadway." 7 Fed. Reg. 5142, 5142 (July 7, 1942); see also 8 Fed. Reg. 12,571, 12,571 (Sept. 14, 1943) (prohibiting use of road oil for paving).

More generally, respondents urge practices that would have at least "indirectly" affected "the rate at which [petitioners] extracted crude oil." Pet. App. 21. For example, respondents criticize "the 24/7 nature of operations," which "erode[d] levees and destroy[ed] marshes." 23-30294 C.A. ROA 98. But PAW's overriding "imperative [for] an effective prosecution of th[e] war" was "a maximum recovery of petroleum." 6 Fed. Reg. 6687, 6687 (Dec. 24, 1941). Respondents' efforts to second-guess those wartime demands contradict federal policy.

To be sure, some of PAW's early orders were styled as "[r]ecommendation[s]." *PAW History* 402-405 (collecting citations). But federal supervision does not need to be compulsory to satisfy the "acting under" element, as the parishes appear to believe (Br. in Opp. 5, 13). Even "guidance" can suffice. *Watson*, 551 U.S. at 151 (citation omitted). In any event, once the war began, the notion that an oil company could or would ignore a PAW recommendation was, as PAW's chief counsel later explained, a "fiction." J. Howard Marshall II, *Done in Oil* 140 (1994). PAW's directions "were followed 'voluntarily' for the simple reason that the PAW controlled the supply of all critical materials and all operating supplies needed by almost every operator." *Ibid.*

2. "[T]he fact of federal regulation alone" does not suffice for removal. *Watson*, 551 U.S. at 153. But in the unique setting of World War II, petitioners' oil production served "to *assist*, or to help *carry out*, the duties or

tasks of the federal superior," making petitioners persons "'acting under'" federal officers. *Id.* at 152. Respondents' suits challenging those same acts are thus suits "for * * * act[s] under color of [federal] office." 28 U.S.C. 1442(a)(1).

President Roosevelt charged PAW with "providing adequate supplies of petroleum for the successful prosecution of the war." 7 Fed. Reg. at 10,091. "PAW acted as the general staff of the American oil campaign," with the industry implementing those demands "under the guidance of PAW." *Wartime Petroleum Policy* 6. Industry and government thus formed "a dynamic partnership" to make "a major contribution to the winning of the war." *Id.* at 18-19. As PAW's orders made clear, its "directions" to "the petroleum industry" were "necessary" "to promote the national defense." 8 Fed. Reg. 1815, 1815 (Feb. 10, 1943). The Department of Justice even certified that the oil industry's coordinated actions "under the direction of public authority" did not violate the antitrust laws because they were "designed to promote public interest and not to achieve private ends." Letter from Robert H. Jackson, Att'y Gen., to John Lord O'Brian, Gen. Counsel, Office of Production Mgmt. (Apr. 29, 1941), reprinted in *PAW History* 384 (articulating general policy); see Letter from Francis Biddle, Acting Att'y Gen., to Harold L. Ickes, Petroleum Coordinator for Nat'l Defense (June 18, 1941) (applying that policy to oil-industry actions in compliance with PAW's directions and recommendations), reprinted in *PAW History* 383.

In *Plaquemines II*, the court of appeals rejected PAW's supervision as a basis for removal. 2022 WL 9914869, at *3. In so holding, the court did not dispute that the federal government exercised an "unprece-

dented level of control over oil production" during World War II in service of "military and domestic wartime needs." *Ibid.* (citation omitted). But the court deemed that federal oversight irrelevant because "pervasive federal regulation alone is not sufficient to confer federal jurisdiction." *Ibid.* (citation omitted).

That reasoning tracks the court of appeals' erroneous refusal in this case to consider PAW's role connecting petitioners' oil production and avgas refining. See pp. 29-30, *supra*. The key to the "acting under" requirement is that the defendant assisted the federal officer in carrying out his federal duties. *Watson*, 551 U.S. at 152. Compliance with federal law and regulation—even highly detailed regulation—is not enough because heavily regulated parties, like the cigarette makers in *Watson*, frequently do not assist the federal government.

But in our "time of national peril," PAW and the oil industry joined together in "an unprecedented and effective partnership" to "mobiliz[e] the full oil resources and facilities of the Nation to serve the war program." *PAW History* 15. Together, both served a "single purpose": "winning the war." *Id.* at 67. On these facts, petitioners were "person[s] acting under" a federal officer who are entitled to seek a federal forum for these suits "for" their wartime activities. 28 U.S.C. 1442(a)(1).

CONCLUSION

The court of appeals' judgment should be reversed.

Respectfully submitted.

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