No. 25-1047

IN THE

Supreme Court of the United States

TRIUMPH FOODS, LLC, ET AL.,

Petitioners,

V.

ANDREA JOY CAMPBELL, IN HER OFFICIAL CAPACITY AS ATTORNEY GENERAL OF MASSACHUSETTS, AND ASHLEY RANDLE, IN HER OFFICIAL CAPACITY AS MASSACHUSETTS COMMISSIONER OF AGRICULTURE,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit

SUPPLEMENTAL BRIEF OF PETITIONERS

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INTRODUCTION

Earlier today, this Court decided *Monsanto Co. v. Durnell*, No. 24-1068, slip op. (June 25, 2026), construing FIFRA's express preemption clause and expressly citing the FMIA—the statute at issue here—as containing the same "in addition to or different from" language. The Court held, 7-2, that the "in addition to or different from" inquiry turns on the *practical legal effect* of the state law on the federally regulated entity—not on the law's nominal form—and that a federal agency's affirmative regulatory approval constitutes a federal "requirement" with preemptive force. Notably, the Court specifically cited 21 U.S.C. § 678, the statute at issue in this petition, among federal statutes with "similar or identical" preemption language. *Id.*, slip op. at 13-14. While the Court referenced § 678's labeling-preemption sentence, the operational-preemption clause on which Petitioners rely appears in the immediately preceding sentence of the same provision and deploys the identical "in addition to, or different than" formulation that the Court construed.

Here, the First Circuit's ruling rested squarely on the premise that the Massachusetts Act is "only a sales ban" that imposes no operational "requirement" within the scope of the FMIA—precisely the kind of nominal-form reasoning *Monsanto* rejects.

This Court should either: grant the petition and place the case on its merits docket to reverse under *Harris* and now *Monsanto*; or grant the petition, vacate the judgment of the First Circuit, and remand for reconsideration in light of Petitioners' briefing and now *Monsanto*.

ARGUMENT

I. *Monsanto*'s Framework Directly Governs the Preemption Question Here.

FIFRA's express preemption clause provides that a "State shall not impose or continue in effect any requirements for labeling or packaging ***in addition to or different from*** those required under this subchapter." 7 U.S.C. § 136v(b) (emphasis added). The FMIA's express preemption clause similarly provides that "[r]equirements within the scope of this chapter with respect to premises, facilities and operations of any [federally inspected] establishment . . . which are ***in addition to, or different than*** those made under this chapter" may not be imposed by any State. 21 U.S.C. § 678 (emphasis added). Both statutes deploy the "in addition to or different from" formulation to delineate the boundary between permissible state regulation and preempted state law.

In *Monsanto*, the Court interpreted that shared statutory language and established two principles that bear directly on this case.

First, the Court held that the preemption inquiry turns on the *practical legal effect* of the state requirement, not on how the State chooses to label or frame its law. The respondent argued that a Missouri failure-to-warn claim, "like FIFRA itself, simply requires manufacturers to include adequate warnings to protect human health." *Monsanto*, slip op. at 14. The Court rejected this argument, holding that it "operates at far too high a level of generality and disregards the central and comprehensive role" the federal agency performs. *Id.* at 14-15. The relevant question is what the state law practically requires the regulated entity to *do*, not how the State characterizes its law's objective.

Second, the Court held that a federal agency's affirmative regulatory approvals constitute federal "requirements" with preemptive force. Relying on *Riegel v. Medtronic, Inc.*, 552 U.S. 312 (2008), the Court confirmed that EPA's registration of a pesticide and approval of its label imposed "'requirements' under" the statutory preemption clause. *Monsanto*, slip op. at 12-13. The Court emphasized that a statute's preemption clause protects requirements imposed "under" the Act—"not merely those imposed 'by' the actual statute itself"—and that an agency's regulatory determinations "give content to" the statutory standards and thus carry preemptive force. *Id.* at 11-12, 15.

Critically, the Court did not limit these principles to FIFRA. It expressly identified "several other federal statutes across a range of industries" that "contain similar or identical" preemption provisions, and cited 21 U.S.C. § 678 first among them. *Id.* at 13-14. To be precise, the Court referenced the labeling preemption sentence of § 678, which provides that "[m]arking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under this chapter may not be imposed by any State." But the operational preemption clause on which Petitioners rely here appears in the immediately preceding sentence of that very same statutory provision, and deploys identical language: "[r]equirements within the scope of this chapter with respect to premises, facilities and operations of any [federally inspected] establishment … which are in addition to, or different than those made under this chapter" likewise "may not be imposed by any State." 21 U.S.C. § 678. The two sentences share the same "in addition to, or different than" formulation—the very language the Court

construed in *Monsanto*. Where Congress uses identical language in adjacent clauses of the same statute, this Court presumes that language bears the same meaning. *See Monsalvo v. Bondi,* 604 U.S. 712, 726 (2025) ("identical words and phrases within the same statute should normally be given the same meaning" (cleaned up)). "And, if anything, that maxim may be doubly appropriate where, as here, Congress employed the same term in multiple places at the same time in the same section of the same public law." *Ibid.* (cleaned up).

The Court's interpretation of that statutory language in *Monsanto* therefore necessarily governs both clauses of § 678. And the Court's broader observation that these cognate "preemption clauses reflect Congress's judgment that the ability to sell a product throughout the country with a single [regulatory standard] can be important to maintaining an efficient nationwide market," *id.* at 14, applies with full force to the FMIA's operational preemption clause, which was enacted to ensure "a uniform framework" that would "provide consumer protection for all citizens, regardless of where their meat originates." H.R. Rep. No. 90-653, pt. 1, at 14 (1967); *see National Meat Ass'n v. Harris*, 565 U.S. 452, 459-60 (2012).

II. The First Circuit's Reasoning Cannot Survive *Monsanto*.

The First Circuit rejected Petitioners' FMIA preemption claim on the ground that the Massachusetts Act "regulates pork production, rather than pork inspection" and "only bans the sale of noncompliant pork meat" without imposing "any operational requirement" within the FMIA's scope. Pet. App. 32a-33a. *Monsanto* forecloses that

reasoning. The First Circuit accepted Massachusetts's nominal characterization of the Act as "only a sales ban" without examining its practical effect on the federally regulated entity—but *Monsanto* holds that the preemption inquiry turns on the state law's practical legal effect, not the State's chosen label. *See* slip op. at 14–15. The Act's practical effect is undisputed: to sell pork into Massachusetts, Triumph must segregate compliant pigs from conventional pigs at every stage of processing, maintain separate production lines, create new product codes, and "recall" any product inadvertently commingled—not because federal inspectors found it unsafe, but because Massachusetts deems it noncompliant. Pet. App. 47a, 159a-167a. Likewise, the First Circuit failed to recognize that FSIS's inspection and operational approvals—like EPA's registration under FIFRA—constitute federal "requirements" within the meaning of § 678 that state law may not supplement or override. *See Monsanto*, slip op. at 12-15. The Act overrides FSIS's determination that fully inspected pork is fit for sale by prohibiting its sale based on the sow's housing conditions—criteria the FMIA does not contemplate and that bear no relation to the safety or wholesomeness of the meat. These are requirements "with respect to premises, facilities and operations" of an FMIA-inspected establishment that are "in addition to, or different than" those made under the FMIA.

Monsanto also addressed the concern that preemption leaves the public without recourse when new safety information comes to light. The Court explained that the proper remedy lies with the federal agency, not with state law: third parties who believe new information warrants regulatory action "are free

to petition EPA to modify, suspend, or cancel a pesticide's registration," and the agency's decision is subject to judicial review. *Monsanto*, slip op. at 21. The Court underscored that a citizen who "becomes aware of new safety concerns" is "free to bring the information to EPA's attention"—but "that is quite different from seeking to retroactively penalize a manufacturer for doing what it was legally required to do at the time." *Id.* at 21 n.10.

The same logic applies here with equal force. If Massachusetts believes that the sow's housing conditions present a safety or welfare concern affecting the resulting pork, the proper channel is to raise that issue with FSIS—the federal agency Congress charged with ensuring the safety and wholesomeness of meat in interstate commerce—not to impose state-law sales restrictions that override FSIS's determinations and compel operational changes at federally inspected facilities.

III. A GVR Is Warranted at Minimum.

"Where intervening developments . . . reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration, and where it appears that such a redetermination may determine the ultimate outcome of the litigation, a GVR order is, we believe, potentially appropriate." *Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (*per curiam*). *Monsanto* is precisely such a development. The First Circuit's preemption analysis rested on two premises that *Monsanto* undermines: (1) that the Act's characterization as a "sales ban" insulates it from preemption, and (2) that the FMIA's preemption clause reaches only laws that directly regulate "methods of slaughter" or "pork inspection," rather

than laws whose practical legal effect is to compel additional or different operational requirements at federally inspected facilities. Because the First Circuit had no occasion to consider *Monsanto*'s framework—decided today—a GVR is the appropriate minimum disposition to ensure the lower court may apply this Court's newly articulated standard.

CONCLUSION

This Court should either: grant the petition and place the case on its merits docket to reverse under *Harris* and now *Monsanto*; or grant the petition, vacate the judgment of the First Circuit, and remand for reconsideration in light of Petitioners' briefing and now *Monsanto*.

Respectfully submitted,

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