

Federal Officer Removal After Justices' La. Pollution Ruling

By **Kyle McWaters, Ann Farr and Kelly Hutchinson** (June 4, 2026)

On April 17, the U.S. Supreme Court **held**, in *Chevron USA Inc. v. Plaquemines Parish, Louisiana*, that the phrase "relating to" in the federal officer removal statute sweeps broadly and gives great latitude to a removing defendant's attempt to reach a federal forum.

As discussed below, after the high court's ruling, there are three key questions that companies interested in pursuing federal officer removal should ask.

The extensive scope of federal officer removal allows removal of a suit from state court when a defendant can allege the challenged conduct implicates the defendant's activities while carrying out federal duties.

Plaquemines Parish, along with other parishes, filed suit in state court against several oil and gas companies, including Chevron and Exxon Mobil Corp., for the companies' use of the coastal zone to produce crude oil without a permit in violation of Louisiana's State and Local Coastal Resources Management Act.

The parishes also alleged that some of these uses — including Chevron's crude oil production during World War II— were illegally commenced and not covered by the act's exemption for uses before 1980.

Five years after filing suit, the parishes made clear that they intended to base their claims for damages, costs of restoration and actual restoration at least in part on Chevron's World War II crude oil production.

Chevron promptly removed to the U.S. District Court for the Eastern District of Louisiana under the federal officer removal statute, based on its predecessor's contract with the government for aviation gas, or avgas, refining during World War II.

Title 28 of the U.S. Code, Section 1442(a)(1), allows a defendant to remove any case filed against "any person acting under [an officer] of the United States ... in an official or individual capacity, for or relating to any act under color of such office."

Chevron argued that the historical crude oil production targeted in the parishes' suit related to its contractual duties to refine crude oil into avgas for the military during the war.

The federal district court disagreed that there was a relation to the contractual duties and remanded the case back to state court. The U.S. Court of Appeals for the Fifth Circuit affirmed.[1]

Although the Fifth Circuit agreed with the district court's decision to remand, it narrowed the grounds for doing so. It rejected the district court's determination that the oil companies



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were not acting under federal direction because avgas refining was not the conduct challenged in the lawsuit.

To the contrary, the Fifth Circuit reasoned that the federally directed activity does not have to form the basis for complained of conduct, and that such a rule conflates the distinct "acting under" and "related to" elements of federal officer removal.

The companies met the "acting under" prong because their work refining crude oil into the avgas the government needed for World War II was conducted pursuant to federal direction, and that relationship formed the basis for the defendants' argument for removal.[2]

However, given that Section 1442 requires a connection between the conduct alleged in a lawsuit and the defendants' federally-directed actions, the Fifth Circuit concluded removal was not appropriate because the oil companies could not satisfy the "related to" requirement.

While it acknowledged the companies acted as federal agents to refine avgas, the court said that relationship between that refinement and the crude oil production at issue in the parishes' suit was too attenuated.[3]

Additionally, the majority found unavailing the defendants' assertion that their federal refinery obligations were related to their oil production practices because they were vertically integrated companies at the time of the contracts.[4]

The Petroleum Administration for War, or PAW, program allocated crude oil to specific refineries. It therefore severed any connection between the companies' production and refinement activities, because the PAW, not the companies, controlled whether they refined their own crude.[5]

The Supreme Court granted certiorari to address whether the parishes' suit, which focused on Chevron's wartime production of crude oil, had enough of a connection to Chevron's federally directed avgas refinement to satisfy the "for or related to" element of federal officer removal.

By a vote of 8-0, the justices agreed that it did. The court held that "[t]he phrase 'relating to' sweeps broadly," so that a defendant seeking to remove his case from state court to federal court is not required to "show that his federal duties specifically required or strictly caused the challenged conduct." [6]

Rejecting the Fifth Circuit's reasoning, the court determined that Chevron could properly remove the case to federal court because the complained-of acts fit "comfortably" in the ordinary definition of "relating to," and were closely connected to the performance of Chevron's federal duties.[7]

The court explained that "'relating to' does not require the defendant to show that his federal duties specifically invited his challenged conduct." [8] Nor does a defendant need to show "a strict causal relationship" to establish the suit relates to acts under a federal officer for removal.[9]

Similarly, the court reasoned that "an act can relate to its consequences even when the causal chain includes actions by intermediaries." [10]

Here, even though the PAW served as an intermediary by allocating crude oil to certain

refiners, the production of crude oil still related to Chevron's avgas refinement, and thus, its actions were under the direction of a federal officer.

Louisiana alternatively argued that "the removal statute requires that the defendant was 'acting under' a federal officer in taking the specific actions challenged in the suit."^[11] The court disagreed, and pointed to the Fifth Circuit's reasoning that "acting under" and "connected or associated with" are two separate and distinct elements of the federal officer removal statute.^[12]

Demonstrating just how broad federal officer removal reaches, the unanimous court instructed that Section 1442 "contemplates removal of suits against officers or their agents for acts that were not done under color of their offices, so long as the suits 'relat[e] to' such acts."^[13]

The Supreme Court's ruling in *Plaquemines Parish* allows federal contractors to remove lawsuits to federal court based on conduct that implicates, or has a close relationship with, their federal duties, even if those activities do not form the basis of the lawsuit itself.

While the Supreme Court confirmed the breadth of federal officer removal in the wake of *Plaquemines Parish*, it should not be viewed as a panacea to all state court defendants wishing to seek the "experience, solicitude, and hope of uniformity that a federal forum offers," as the high court put it in *Grable & Sons Metal Products Inc. v. Darue Engineering & Manufacturing* in 2005.^[14]

Indeed, the court limited the broad sweep of "related to" jurisdiction by mandating that the connection between the challenged conduct and the federal activity be a "close relationship" and "not a tenuous, remote, or peripheral one."^[15]

The court's decision that Chevron's production of crude oil was related to its federal contract to refine avgas endorsed the approach taken in many circuits.^[16] Given the continued requirement of a close relationship between the federal activity and the complained-of conduct, drawing exactly where that line lies will likely be the providence of future removal litigation.

Companies seeking to utilize the powerful tool of federal officer removal should ask three questions.

First, does a federal contract specifically direct the actions of the company? If so, that supports allegations in the removal papers that the company acted under the direction of a federal officer.

Second, is the complained-of conduct the subject of the federally directed activity? Federally directed activity challenged by a lawsuit is the clearest form of federal officer jurisdiction, and would fall under the "for ... any act under color of such office" carveout of the "for or related to" prong.

Third, if the complained-of conduct is not the subject of the federally directed activity, is it related to those actions? To comply with the broad "related to" standard endorsed by the *Plaquemines Parish* ruling, a company can allege the complained-of conduct merely had a bearing or concern, pertained to, referred to or was connected with the federally directed activity that formed the basis for removal.^[17]

As noted earlier, determining whether the complained-of conduct meets this definition of

relating to the federally directed activity is the likely next arena in which litigants can expect to see action.

Effectively answering these questions in a notice of removal and subsequent briefing should allow companies working under federal direction to obtain the protection from state court interference contemplated and offered by Section 1442.[18]

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[1] *Plaquemines Par. v. BP Am. Prod. Co.*, 103 F.4th 324 (5th Cir. 2024), cert. granted sub nom. *Chevron USA Inc. v. Plaquemines Par.*, Louisiana, 145 S. Ct. 2792, 222 L. Ed. 2d 1085 (2025), and cert. dismissed in part sub nom. *Chevron USA Inc. v. Plaquemines Par.*, 145 S. Ct. 2290, 222 L. Ed. 2d 1119 (2025), and vacated and remanded sub nom. *Chevron USA Inc. v. Plaquemines Par.*, Louisiana, 146 S. Ct. 1052 (2026).

[2] *Id.* at 335.

[3] *Plaquemines Par.*, 103 F.4th at 341-42.

[4] *Id.* at 344.

[5] *Id.*

[6] *Plaquemines Par.*, Louisiana, 146 S. Ct. at 1060.

[7] *Id.* at 1061.

[8] *Id.* at 1062.

[9] *Id.* at 1060.

[10] *Id.* at 1062.

[11] *Id.*

[12] *Id.* at 1063.

[13] *Id.*

[14] *Grable & Sons Metal Prods. Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 312, (2005).

[15] *Plaquemines Par., Louisiana*, 146 S. Ct. at 1061.

[16] See e.g., *In re: Commonwealth's Motion to Appoint Counsel Against or Directed to Defender Ass'n of Philadelphia*, 790 F.3d 457, 471 (3d Cir. 2015), as amended (June 16, 2015) (federal officer is not required to allege complained-of conduct itself was at the behest of a federal agency, rather a connection or association between act in question and federal activity suffices); *County Bd. of Arlington County, Virginia v. Express Scripts Pharmacy Inc.*, 996 F.3d 243, 257 (4th Cir. 2021) (federal officer jurisdiction because the challenged conduct "related to" defendant's acts under a federal contract even when those acts were not specifically pled in the complaint); see also *W. Virginia ex rel. McCuskey v. 3M Co.*, No. 2:25-CV-00750, 2026 WL 1078572, at *6 (S.D.W. Va. Apr. 21, 2026) (State lawsuit alleging federal contractor made misrepresentations and omissions associated with non-federal sales and marketing of respirators, related to company's conduct as a federal officer to deliver the same respirators to FEMA during the COVID-19 pandemic.); *Am. Fed'n of Teachers v. Higher Educ. Loan Auth. of the State of Missouri*, No. 24-CV-2460 (TSC), 2025 WL 2779802, at *6 (D.D.C. Sept. 29, 2025) ("The statute therefore does not require a causal connection between acts taken under color of federal office and the basis for the action — it is enough that acts taken under color of federal office are 'connected or associated' with the conduct at issue in the case.").

[17] See *id.* at 1060.

[18] See *Watson v. Philip Morris Companies.*, 551 U.S. 142, 150, 127 S. Ct. 2301, 168 L. Ed. 2d 42 (2007).