NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

GADE, DIRECTOR, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY *v.* NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 90–1676. Argued March 23, 1992—Decided June 18, 1992

Pursuant to authority contained in the Occupational Safety and Health Act of 1970 (OSH Act or Act), the Occupational Safety and Health Administration (OSHA) promulgated regulations implementing a requirement of the Superfund Amendments and Reauthorization Act of 1986 (SARA) that standards be set for the initial and routine training of workers who handle hazardous wastes. Subsequently, Illinois enacted two acts requiring the licensing of workers at certain hazardous waste facilities. Each state act has the dual purpose of protecting workers and the general public and requires workers to meet specified training and examination requirements. Claiming, among other things, that the acts were pre-empted by the OSH Act and OSHA regulations, respondent, an association of businesses involved in, *inter alia,* hazardous waste management, sought injunctive relief against petitioner Gade's predecessor as director of the state environmental protection agency to prevent enforcement of the state acts. The District Court held that the state acts were not pre-empted because they protected public safety in addition to promoting job safety, but it invalidated some provisions of the acts. The Court of Appeals affirmed in part and reversed in part, holding that the OSH Act pre-empts all state law that ``constitutes, in a direct, clear and substantial way, regulation of worker health and safety,'' unless the Secretary of Labor has explicitly approved the law pursuant to §18 of the OSH Act. In remanding, the court did not consider which, if any, of the provisions would be pre-empted.

Held: The judgment is affirmed.

918 F.2d 671, affirmed.

JUSTICE O'CONNOR delivered the opinion of the Court with

respect to Parts I, III, and IV, concluding that:

1.A state law requirement that directly, substantially, and specifically regulates occupational safety and health is an occupational safety and health standard within the meaning of the OSH Act regardless of whether it has another, nonoccupational purpose. In assessing a state law's impact on the federal scheme, this Court has refused to rely solely on the legislature's professed purpose and has looked as well to the law's effects. See, *e. g., Perez* v. *Campbell,* 402 U.S. 637, 651–652. State laws of general applicability, such as traffic and fire safety laws, would generally not be pre-empted, because they regulate workers simply as members of the general public. Pp.14–18.

2.The state licensing acts are pre-empted by the OSH Act to the extent that they establish occupational safety and health standards for training those who work with hazardous wastes. The Act's saving provisions are not implicated and Illinois does not have an approved plan. Illinois' interest in establishing standards for licensing various occupations, cf., *e. g., Goldfarb* v. *Virginia State Bar,* 421 U.S. 773, 792, cannot save from OSH Act pre-emption those provisions that directly and substantially affect workplace safety, since any state law, however clearly within a State's acknowledged power, must yield if it interferes with or is contrary to federal law, *Felder* v. *Casey,* 487 U.S. 131, 138. Nor can the acts be saved from pre-emption by Gade's argument that they regulate a ``pre-condition'' to employment rather than occupational safety and health, since SARA makes clear that the training of employees engaged in hazardous waste operations is an occupational safety and health issue and that certification requirements before an employee may engage in such work are occupational safety and health standards. This Court does not specifically consider which of the licensing acts' provisions will be pre-empted under the foregoing analysis. Pp.18–19.

JUSTICE O'CONNOR, joined by THE CHIEF JUSTICE, JUSTICE WHITE, and JUSTICE SCALIA, concluded in Part II that the OSH Act impliedly pre-empts any state regulation of an occupational safety or health issue with respect to which a federal standard has been established, unless a state plan has been submitted and approved pursuant to §18(b) of the Act. The Act as a whole demonstrates that Congress intended to promote occupational safety and health while avoiding subjecting workers and employers to duplicative regulation. Thus, it established a system of uniform federal standards, but gave States the option of pre-empting the federal regulations entirely pursuant to an approved state plan that displaces the federal standards. This intent is indicated principally in §18(b)'s statement that a State ``shall'' submit a plan if it wishes to ``assume responsibility'' for developing and enforcing health and safety standards. Gade's interpretation of §18(b)—that the Secretary's approval is

required only if a State wishes to replace, not merely supplement, the federal regulations—would be inconsistent with the federal scheme and is untenable in light of the surrounding provisions. The language and purposes of §§18(a), (c), (f), and (h) all confirm the view that the States cannot assume an enforcement role without the Secretary's approval, unless no federal standard is in effect. Also unacceptable is Gade's argument that the OSH Act does not pre-empt nonconflicting state laws because those laws, like the Act, are designed to promote worker safety. Even where such laws share a common goal, a state law will be pre-empted if it interferes with the methods by which a federal statute was intended to reach that goal. *International Paper Co.* v. *Ouellette,* 479 U.S. 481, 494. Here, the Act does not foreclose a State from enacting its own laws, but it does restrict the ways in which it can do so. Pp.5–14.

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JUSTICE KENNEDY, agreeing that the state laws are pre-empted, concluded that the result is mandated by the express terms of §18(b) of the OSH Act and that the scope of pre-emption is also defined by the statutory text. Such a finding is not contrary to the longstanding rule that this Court will not infer pre-emption of the States' historic police powers absent a clear statement of intent by Congress. Unartful though §18(b)'s language may be, its structure and language, in conjunction with subsections (a), (c), and (f), leave little doubt that in the OSH Act Congress intended to pre-empt supplementary state regulation of an occupational safety and health issue with respect to which a federal standard exists. Pp. 1, 3-5.

O'CONNOR, J., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, III, and IV, in which REHNQUIST, C. J., and WHITE, SCALIA, and KENNEDY, JJ., joined, and an opinion with respect to Part II, in which REHNQUIST, C. J., and WHITE and SCALIA, JJ., joined. KENNEDY, J., filed an opinion concurring in part and concurring in the judgment. SOUTER, J., filed a dissenting opinion, in which BLACKMUN, STEVENS, and THOMAS, JJ., joined.