

## Syllabus

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 Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

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**CHAO, SECRETARY OF LABOR *v.* MALLARD BAY  
DRILLING, INC.****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE FIFTH CIRCUIT**

No. 00–927. Argued October 31, 2001—Decided January 9, 2002

While Rig 52, respondent’s oil and gas exploration barge, was drilling a well in Louisiana’s territorial waters, an explosion on board killed or injured several workers. Pursuant to its statutory authority, the United States Coast Guard (Coast Guard or Guard) investigated the incident, but did not accuse respondent of violating any of its regulations. Indeed, the Guard noted that the barge was an “uninspected vessel,” see 46 U. S. C. §2101(43), as opposed to an “inspected vessel” subject to comprehensive Coast Guard regulation, see §3301. Subsequently, the Occupational Safety and Health Administration (OSHA) cited respondent for violations of the Occupational Safety and Health Act of 1970 (OSH Act or Act) and its regulations. Respondent challenged OSHA’s jurisdiction to issue the citations on the grounds that Rig 52 was not a “workplace” under §4(a) of the Act and that §4(b)(1) of the Act pre-empted OSHA jurisdiction because the Coast Guard had exclusive authority to prescribe and enforce occupational safety and health standards on vessels such as Rig 52. In rejecting both challenges, the Administrative Law Judge (ALJ) found that Rig 52 was a “workplace” under the Act and held that the Coast Guard had not pre-empted OSHA’s jurisdiction, explaining that there was no industry-wide exemption from OSHA regulations for uninspected vessels and no Coast Guard regulation specifically regulating the citations’ subject matter. The Occupational Safety and Health Review Commission issued a final order assessing a penalty against respondent. Without addressing the §4(a) issue, the Fifth Circuit reversed, holding that the Coast Guard’s exclusive jurisdiction over the regulation of seamen’s working conditions aboard vessels such as Rig 52 precluded OSHA’s regulation under §4(b)(1), and that this pre-

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emption encompassed both inspected and uninspected vessels.

*Held:*

1. Because the Guard has neither affirmatively regulated the working conditions at issue, nor asserted comprehensive regulatory jurisdiction over working conditions on uninspected vessels, it has not exercised its authority under §4(b)(1). The OSH Act does not apply to working conditions as to which other federal agencies “exercise” statutory authority to prescribe or enforce occupational safety and health standards or regulations. §4(b)(1), 29 U. S. C. §653(b)(1). Congress’ use of “exercise” makes clear that mere possession by another federal agency of unexercised authority is insufficient to displace OSHA’s jurisdiction. Furthermore, another federal agency’s minimal exercise of some authority over certain vessel conditions does not result in complete pre-emption of OSHA jurisdiction. To determine whether Coast Guard regulations have pre-empted jurisdiction over Rig 52’s working conditions, it is thus necessary to examine the contours of the Guard’s exercise of its statutory authority. With respect to *inspected* vessels, the parties do not dispute that OSHA’s regulations have been pre-empted because the Coast Guard has exercised its broad statutory authority over workers’ occupational health and safety, 46 U. S. C. §3306. Indeed, OSHA and the Coast Guard signed a Memorandum of Understanding recognizing that the Guard has displaced OSHA’s jurisdiction over all working conditions on inspected vessels, including those not addressed by specific regulations. In contrast, the Guard’s regulatory authority over uninspected vessels is more limited. Its general maritime regulations do not address the occupational safety and health concerns faced by inland drilling operations on such vessels and, thus, do not pre-empt OSHA’s authority in this case. And, although the Guard has engaged in a limited exercise of its authority to regulate specific working conditions on certain types of uninspected vessels, respondent has not identified any specific regulations addressing the types of risk and vessel at issue here. Pp. 5–9.

2. Rig 52 was a “workplace” under §4(a) of the Act. It was located within a geographic area described in §4(a)—a State—and §4(a) attaches no significance to the fact that it was anchored in navigable waters. Pp. 9–10.

212 F. 3d 898, reversed.

STEVENS, J., delivered the opinion of the Court, in which all Members joined, except SCALIA, J., who took no part in the decision of the case.