

110TH CONGRESS
2^D SESSION

H. R. 5522

To require the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2008

Mr. GEORGE MILLER of California (for himself and Mr. BARROW) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To require the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Combustible Dust Ex-
5 plosion and Fire Prevention Act of 2008”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) An emergency exists concerning worker ex-
2 posure to combustible dust explosions and fires.

3 (2) At least 12 workers were killed and more
4 than 60 seriously injured in a catastrophic combus-
5 tible dust explosion at Imperial Sugar in Savannah,
6 Georgia, on February 7, 2008.

7 (3) Following 3 catastrophic dust explosions
8 that killed 14 workers in 2003, the Chemical Safety
9 and Hazard Investigation Board (CSB) issued a re-
10 port in November 2006 which identified 281 com-
11 bustible dust incidents between 1980 and 2005 that
12 killed 119 workers and injured 718. A quarter of the
13 explosions occurred at food industry facilities, in-
14 cluding sugar plants.

15 (4) The CSB concluded that “combustible dust
16 explosions are a serious hazard in American indus-
17 try”.

18 (5) Material Safety Data Sheets (MSDSs) often
19 do not adequately address the hazards of combus-
20 tible dusts and the hazard communication standard
21 promulgated by the Occupational Safety and Health
22 Administration (OSHA) (29 C.F.R. 1910.1200) in-
23 adequately addresses dust explosion hazards, and
24 fails to ensure that safe work practices and guidance
25 documents are included in MSDSs.

1 (6) The CSB recommended that OSHA issue a
2 standard designed to prevent combustible dust fires
3 and explosions in general industry, based on current
4 National Fire Protection Association dust explosion
5 standards, and also that OSHA revise the hazard
6 communication standard to clarify that combustible
7 dusts are covered and that Material Safety Data
8 Sheets contain information about the hazards and
9 physical properties of combustible dusts.

10 (7) OSHA has not formally acted on either of
11 the CSB's regulatory recommendations.

12 (8) OSHA issued a grain handling facilities
13 standard in 1987 (29 C.F.R. 1910.272) that has
14 proven highly effective in reducing the risk of com-
15 bustible grain dust explosions, according to an
16 OSHA evaluation.

17 (9) No OSHA standard comprehensively ad-
18 dresses combustible dust explosion hazards in gen-
19 eral industry.

20 (10) Voluntary National Fire Protection Asso-
21 ciation standards exist which, when implemented, ef-
22 fectively reduce the likelihood and impact of combus-
23 tible dust explosions.

24 **SEC. 3. ISSUANCE OF STANDARD ON COMBUSTIBLE DUST.**

25 (a) INTERIM STANDARD.—

1 (1) RULEMAKING.—Not later than 90 days
2 after the date of enactment of this Act, the Sec-
3 retary of Labor shall promulgate an interim final
4 standard regulating combustible dusts. The interim
5 final standard shall apply to manufacturing, proc-
6 essing, blending, conveying, repackaging, and han-
7 dling of combustible particulate solids and their
8 dusts, including food (such as candy, starch, flour,
9 sugar, feed), plastics, wood, rubber, furniture, tex-
10 tiles, pesticides, pharmaceuticals, fibers, dyes, coal,
11 metals (such as aluminum, chromium, iron, magne-
12 sium, and zinc), fossil fuels power, and any other in-
13 dustry in which combustible dust presents a hazard,
14 but shall not apply to processes already covered by
15 OSHA’s standard on grain facilities (29 C.F.R.
16 1910.272).

17 (2) REQUIREMENTS.—The interim final stand-
18 ard required under this subsection shall provide no
19 less protection than the recommendations contained
20 in the National Fire Protection Association’s Stand-
21 ard for the Prevention of Fire and Dust Explosions
22 from the Manufacturing, Processing, and Handling
23 of Combustible Particulate Solids–2006 (NFPA
24 654) and Standard for Combustible Metals–2006
25 (NFPA 484) and shall provide for the following:

1 (A) Requirements for hazard assessment to
2 identify evaluate and control combustible dust
3 hazards.

4 (B) Requirements for a written program
5 which includes plans for hazardous dust inspec-
6 tion, testing, housekeeping, and control, with
7 established frequency and methods.

8 (C) Requirements for engineering, admin-
9 istrative controls and operating procedures such
10 as means to controlling fugitive dust emissions
11 and ignition sources, the use of dust collection
12 systems and filters, minimizing horizontal sur-
13 faces where dust can accumulate, and sealing of
14 areas inaccessible to housekeeping.

15 (D) Requirements for managing change of
16 dust producing materials, technology, equip-
17 ment, staffing, and procedures.

18 (E) Requirements for housekeeping to con-
19 trol accumulation of combustible dust.

20 (F) Requirements for building design, such
21 as equipping buildings with explosion venting or
22 sprinklers.

23 (G) Requirements for explosion protection,
24 including separation and segregation of the haz-
25 ard.

1 (H) Requirements for employee participa-
2 tion in hazard assessment, development of and
3 compliance with the written program, and other
4 elements of hazard management in this stand-
5 ard.

6 (I) Requirements to provide written safety
7 and health information and training to employ-
8 ees, including hazard communication informa-
9 tion, labeling, and training.

10 (3) EFFECTIVE DATE OF INTERIM STAND-
11 ARD.—The interim final standard shall take effect
12 upon issuance. The interim final standard shall have
13 the legal effect of an occupational safety and health
14 standard, and shall apply until a final standard be-
15 comes effective under section 6 of the Occupational
16 Safety and Health Act (29 U.S.C. 655).

17 (b) FINAL STANDARD.—Not later than 18 months
18 after the date of enactment of this Act, the Secretary of
19 Labor shall, pursuant to section 6 of the Occupational
20 Safety and Health Act (29 U.S.C. 655), promulgate a
21 final standard regulating combustible dust explosions. The
22 final standard shall contain, at a minimum, the worker
23 protection provisions in subsection (a)(2).

1 **SEC. 4. REVISION OF THE HAZARD COMMUNICATION**
2 **STANDARD.**

3 (a) RULEMAKING.—The hazard communications
4 standard in section 1910.1200(c) of chapter 29, Code of
5 Federal Regulations, shall be revised as follows:

6 (1) The definition of “physical hazard” (29
7 C.F.R. 1910.1200(c)) shall be revised to include “a
8 combustible dust” as an additional example of a
9 physical hazard.

10 (2) The term “combustible dust” shall be added
11 to the definitions in such section and such term shall
12 be defined as “a combustible particulate solid or
13 finely divided metal that presents a fire or deflagra-
14 tion hazard when suspended in air or some other
15 oxidizing medium over a range of concentrations re-
16 gardless of particle size and shape”.

17 (b) PROCEDURE AND EFFECTIVE DATE.—The modi-
18 fications of the standard required by subsection (a) shall
19 be made and published in the Federal Register not later
20 than 6 months after the date of enactment of this Act
21 by the Secretary of Labor acting through the Occupational
22 Safety and Health Administration without regard to the
23 procedural requirements applicable to regulations promul-
24 gated under section 6(b) of the Occupational Safety and
25 Health Act of 1970 (29 U.S.C. 655(b)) or the procedural
26 requirements of chapter 5 of title 5, United States Code.

1 Such revised standard shall take effect not later than 90
2 days after the publication in the Federal Register.

3 (c) EFFECT OF MODIFICATIONS.—The modifications
4 under this section shall be in force until superseded in
5 whole or in part by regulations promulgated by the Sec-
6 retary of Labor under section 6(b) of the Occupational
7 Safety and Health Act of 1970 (29 U.S.C. 655(b)) and
8 shall be enforced in the same manner and to the same
9 extent as any rule or regulation promulgated under such
10 section.

○