

PROVIDING FOR CONSIDERATION OF THE BILL (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

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APRIL 29, 2008.—Referred to the House Calendar and ordered to be printed

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Mr. MCGOVERN, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 1157]

The Committee on Rules, having had under consideration House Resolution 1157, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5522, the Combustible Dust Explosion and Fire Prevention Act of 2008, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except for clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except for clauses 9 and 10 of rule XXI are waived. The rule provides one motion to recom-

mit with or without instructions. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

#### EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) and all points of order against the amendment in the nature of a substitute (except for clause 10 of rule XXI), the Committee is not aware of any points of order. The waivers of all points of order are prophylactic.

#### SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Miller, George (CA): The Manager's Amendment makes four adjustments to the bill: (1) corrects the short title; (2) provides that engineering controls required by the interim standard shall be effective 6 months after issuance of the standard (rather than 30 days); (3) maintains the provision that DOL shall include appropriate and relevant NFPA standards in the final standard but eliminates references to specific NFPA standards; and (4) clarifies that the final standard shall be conducted in accordance with usual rulemaking procedural requirements, including those that provide for small business review. (10 minutes)

2. Wilson, Joe (SC): Amendment in the Nature of a Substitute. The substitute amendment directs OSHA to wait for the outcome of the Imperial Sugar investigation and findings from the combustible dust National Emphasis Program before deciding on whether to move forward with a standard. (30 minutes)

#### TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GEORGE MILLER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, beginning on line 4, strike "Combustible Dust" and all that follows through "Act" on line 5, and insert "Worker Protection Against Combustible Dust Explosions and Fires Act".

Page 5, line 22, insert "controls (which requirements shall be effective 6 months after the date on which the interim standard is issued)" after "engineering".

Page 7, line 4, strike "The" and insert "Except as specified in paragraph (2)(C) with regards to engineering controls, the".

Page 8, beginning on line 8, strike ", including" and all that follows through line 15 and insert a period.

Page 8, after line 15, insert the following:

(3) PROCEDURE.—The final standard required by this subsection shall be promulgated in accordance with the procedural requirements for rulemaking under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) and under title 5, United States Code, including the requirements relating to small businesses in chapter 6 of such title.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WILSON OF SOUTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 30 MINUTES

Strike all after the enacting clause and insert the following:

**SECTION 1. INVESTIGATION ON COMBUSTIBLE DUST AND DETERMINATION OF ADDITIONAL ACTION.**

(a) **DETERMINATION BY THE SECRETARY.**—Upon completion of the Department of Labor’s investigation of the accident that occurred at Imperial Sugar in Port Wentworth, Georgia on February 7, 2008, and based on the data gathered from the Combustible Dust National Emphasis Program, the Secretary of Labor shall determine—

(1) if the safety standards that are in effect as of the date of enactment of this Act do not adequately address the issue of combustible dust; and

(2) whether an occupational safety and health standard regarding combustible dust is necessary.

(b) **RULEMAKING OR REPORT TO CONGRESS.**—If the Secretary determines that an occupational safety and health standard regarding combustible dust is necessary, the Secretary shall promulgate a rule pursuant to section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655(b)) not later than 36 months after the completion of the investigation described in subsection (a). If the Secretary determines that such a standard is not necessary, the Secretary, not later than 6 months after making such a determination, shall transmit a report to Congress that specifically addresses the Secretary’s reasons for determining that a combustible dust standard is unnecessary.