

112TH CONGRESS
1ST SESSION

H. R. 522

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2011

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

A BILL

To require the Secretary of Labor to issue an interim occupational safety and health standard 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 “Worker Protection
5 Against Combustible Dust Explosions and Fires Act of
6 2011”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) An emergency exists concerning worker ex-
2 posure to combustible dust explosions and fires, and
3 there is a significant risk of death or severe injury
4 to workers employed at facilities where combustible
5 dusts are present.

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

16 (3) In November 2006, the CSB recommended
17 that the Occupational Safety and Health Adminis-
18 tration (OSHA) issue a standard designed to pre-
19 vent combustible dust fires and explosions in general
20 industry, based on current National Fire Protection
21 Association (NFPA) dust explosion standards.

22 (4) Fourteen workers were killed and more than
23 38 seriously injured in a catastrophic combustible
24 dust explosion at Imperial Sugar in Port Wentworth,
25 Georgia on February 7, 2008.

1 (5) An investigation by the CSB found that the
2 explosion at Imperial Sugar was fueled by a massive
3 accumulation of sugar dust throughout the pack-
4 aging building, triggering a series of secondary ex-
5 plosions throughout the factory.

6 (6) The CSB’s final report of September 24,
7 2009, regarding the Imperial Sugar Refinery explo-
8 sion reiterated its previous recommendation from
9 November 2006 that OSHA proceed expeditiously
10 “to promulgate a comprehensive standard to reduce
11 or eliminate hazards from fire and explosion from
12 combustible powders and dust”.

13 (7) Explosions continue to injure workers and
14 cause property damage. In the 3 years since the
15 February 7, 2008, explosion at Imperial Sugar,
16 there have been 24 additional combustible dust ex-
17 plosions or fires resulting in 4 deaths and 65 inju-
18 ries to workers through February 7, 2011, according
19 to data released by the Chemical Safety Board.

20 (8) On October 21, 2009, OSHA issued an ad-
21 vance notice of proposed rulemaking in response to
22 the CSB’s recommendation; however, a final rule
23 will take at least 4 more years, during which it is
24 foreseeable that additional workers will be seriously
25 injured or killed.

1 (9) OSHA issued a grain handling facilities
2 standard (29 C.F.R. 1910.272) in 1987 that has
3 proven highly effective in reducing the risk of com-
4 bustible grain dust explosions, according to an
5 OSHA evaluation.

6 (10) No OSHA standard comprehensively ad-
7 dresses combustible dust explosion hazards in gen-
8 eral industry.

9 (11) Voluntary NFPA standards exist that,
10 when implemented, effectively reduce the likelihood
11 and impact of combustible dust explosions. In par-
12 ticular—

13 (A) certain requirements currently apply to
14 existing establishments, which NFPA refers to
15 as a “retroactive” application, and include haz-
16 ard assessment, housekeeping, control of static
17 electricity, control of open flames and sparks,
18 use of certain tools, employee training, and re-
19 quirements for inspection and maintenance of
20 equipment;

21 (B) other requirements include conven-
22 tional ignition source control and dust emission
23 control technologies, such as ventilation systems
24 that capture fugitive dust, and enclosure of
25 dust generating processes;

1 (C) many employers currently implement
2 such requirements from NFPA standards to ad-
3 dress combustible dust hazards in the work-
4 place; and

5 (D) many employers maintain written com-
6 bustible dust safety programs and involve em-
7 ployees in implementing the program, which are
8 important aspects of a comprehensive combus-
9 tible dust hazard control system.

10 (12) Implementation of such means of hazard
11 control is both technologically and economically fea-
12 sible and would substantially reduce risks related to
13 combustible dust fires and explosions to workers.

14 **SEC. 3. ISSUANCE OF INTERIM STANDARD ON COMBUS-**
15 **TIBLE DUST.**

16 (a) APPLICATION AND RULEMAKING.—Not later than
17 1 year after the date of enactment of this Act, the Sec-
18 retary of Labor shall promulgate an interim final standard
19 regulating occupational exposure to combustible dust haz-
20 ards. The interim final standard shall, at a minimum,
21 apply to manufacturing, processing, blending, conveying,
22 repackaging, and handling of combustible particulate sol-
23 ids and their dusts, including organic dusts (such as
24 sugar, candy, paper, soap, and dried blood), plastics, sul-
25 fur, wood, rubber, furniture, textiles, pesticides, pharma-

1 ceuticals, fibers, dyes, coal, metals (such as aluminum,
2 chromium, iron, magnesium, and zinc), fossil fuels, and
3 others determined by the Secretary, but shall not apply
4 to processes already covered by the occupational safety
5 and health standard on grain facilities contained in section
6 1910.272 of title 29, Code of Federal Regulations.

7 (b) APPLICATION.—The interim final standard re-
8 quired under this section shall be based on those portions
9 of the National Fire Protection Association Standards in
10 effect on the date of enactment of this Act that—

11 (1) apply to existing facilities; or

12 (2) call for source and dust emission control
13 technologies, such as ventilation systems that cap-
14 ture fugitive dust, and enclosure of dust generating
15 processes.

16 (c) REQUIREMENTS.—The interim final standard re-
17 quired under this section shall include the following ele-
18 ments:

19 (1) Requirements for hazard assessment to
20 identify, evaluate, and control combustible dust haz-
21 ards.

22 (2) Requirements for a written program that
23 includes provisions for hazardous dust inspection,
24 testing, hot work, ignition control, and house-
25 keeping, including the frequency and method or

1 methods used to minimize accumulations of combus-
2 tible dust on ledges, floors, equipment, and other ex-
3 posed surfaces.

4 (3) Requirements for engineering controls, ad-
5 ministrative controls, and operating procedures, in-
6 cluding means to control fugitive dust emissions and
7 ignition sources, and the safe use and maintenance
8 of process equipment and dust collection systems
9 and filters.

10 (4) Requirements for workplace inspection and
11 housekeeping to prevent accumulation of combustible
12 dust in places of employment in such depths that it
13 can present explosion, deflagration, or other fire
14 hazards, including safe methods of dust removal.

15 (5) Requirements for participation of employees
16 and their representatives in hazard assessment, de-
17 velopment of and compliance with the written pro-
18 gram, incident investigation, and other elements of
19 hazard management.

20 (6) Requirements to provide written safety and
21 health information and annual training to managers
22 and employees and their representatives, including
23 housekeeping procedures, hot work procedures, pre-
24 ventive, predictive, and periodic maintenance proce-

1 dures, common ignition sources, and lock-out, tag-
2 out procedures.

3 (d) **APPLICABILITY OF OTHER STATUTORY RE-**
4 **QUIREMENTS.**—The requirements applicable to occupa-
5 tional safety and health standards under section 6(b) of
6 the Occupational Safety and Health Act of 1970 (29
7 U.S.C. 655(b)), the requirements of chapters 5 and 6 of
8 title 5, United States Code, and titles 2 and 42, United
9 States Code, shall not apply to the issuance of the interim
10 final standard required under this section.

11 (e) **EFFECTIVE DATE OF INTERIM STANDARD.**—The
12 interim final standard shall take effect 30 days after
13 issuance, except that such standard may include a reason-
14 able phase-in period for implementation of required engi-
15 neering controls. The interim final standard shall have the
16 legal effect of an occupational safety and health standard,
17 and shall apply until a final standard becomes effective
18 under section 6 of the Occupational Safety and Health Act
19 (29 U.S.C. 655).

20 **SEC. 4. FINAL STANDARD ON COMBUSTIBLE DUST.**

21 Not later than 18 months after the date on which
22 the interim final standard is issued under section 3, the
23 Secretary of Labor shall, pursuant to section 6 of the Oc-
24 cupational Safety and Health Act (29 U.S.C. 655), issue
25 a proposed rule for regulating combustible dust explosions

- 1 that includes the major elements contained in the interim
- 2 final standard issued under section 3, and shall issue a
- 3 final rule 3 years after the issuance of a proposed rule.

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