

# Combustible Dust Explosion and Fire Prevention Act of 2008 (Introduced in House)

HR 5522 IH

110th CONGRESS  
2d 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

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### 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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the `Combustible Dust Explosion and Fire Prevention Act of 2008`.

## SEC. 2. FINDINGS.

Congress finds the following:

- (1) An emergency exists concerning worker exposure to combustible dust explosions and fires.
- (2) At least 12 workers were killed and more than 60 seriously injured in a catastrophic combustible dust explosion at Imperial Sugar in Savannah, Georgia, on February 7, 2008.
- (3) Following 3 catastrophic dust explosions that killed 14 workers in 2003, the Chemical Safety and Hazard Investigation Board (CSB) issued a report in November 2006 which identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers and injured 718. A quarter of the explosions occurred at food industry facilities, including sugar plants.
- (4) The CSB concluded that `combustible dust explosions are a serious hazard in American industry`.
- (5) Material Safety Data Sheets (MSDSs) often do not adequately address the hazards of combustible dusts and the hazard communication standard promulgated by the Occupational Safety and Health Administration (OSHA) (29 C.F.R. 1910.1200) inadequately addresses dust explosion hazards, and fails to ensure that safe work practices and guidance documents are included in MSDSs.

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

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

(8) OSHA issued a grain handling facilities standard in 1987 (29 C.F.R. 1910.272) that has proven highly effective in reducing the risk of combustible grain dust explosions, according to an OSHA evaluation.

(9) No OSHA standard comprehensively addresses combustible dust explosion hazards in general industry.

(10) Voluntary National Fire Protection Association standards exist which, when implemented, effectively reduce the likelihood and impact of combustible dust explosions.

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

(a) Interim Standard-

(1) RULEMAKING- Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall promulgate an interim final standard regulating combustible dusts. The interim final standard shall apply to manufacturing, processing, blending, conveying, repackaging, and handling of combustible particulate solids and their dusts, including food (such as candy, starch, flour, sugar, feed), plastics, wood, rubber, furniture, textiles, pesticides, pharmaceuticals, fibers, dyes, coal, metals (such as aluminum, chromium, iron, magnesium, and zinc), fossil fuels power, and any other industry in which combustible dust presents a hazard, but shall not apply to processes already covered by OSHA's standard on grain facilities (29 C.F.R. 1910.272).

(2) REQUIREMENTS- The interim final standard required under this subsection shall provide no less protection than the recommendations contained in the National Fire Protection Association's Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids-2006 (NFPA 654) and Standard for Combustible Metals-2006 (NFPA 484) and shall provide for the following:

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

(B) Requirements for a written program which includes plans for hazardous dust inspection, testing, housekeeping, and control, with established frequency and methods.

(C) Requirements for engineering, administrative controls and operating procedures such as means to controlling fugitive dust emissions and ignition sources, the use of dust collection systems and filters, minimizing horizontal surfaces where dust can accumulate, and sealing of areas inaccessible to housekeeping.

(D) Requirements for managing change of dust producing materials, technology, equipment, staffing, and procedures.

(E) Requirements for housekeeping to control accumulation of combustible dust.

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

(G) Requirements for explosion protection, including separation and segregation of the hazard.

(H) Requirements for employee participation in hazard assessment, development of and compliance with the written program, and other elements of hazard management in this standard.

(I) Requirements to provide written safety and health information and training to employees, including hazard communication information, labeling, and training.

(3) EFFECTIVE DATE OF INTERIM STANDARD- The interim final standard shall take effect upon issuance. The interim final standard shall have the legal effect of an occupational safety and health standard, and shall apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act (29 U.S.C. 655).

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

## **SEC. 4. REVISION OF THE HAZARD COMMUNICATION STANDARD.**

(a) Rulemaking- The hazard communications standard in section 1910.1200(c) of chapter 29, Code of Federal Regulations, shall be revised as follows:

(1) The definition of `physical hazard' (29 C.F.R. 1910.1200(c)) shall be revised to include `a combustible dust' as an additional example of a physical hazard.

(2) The term `combustible dust' shall be added to the definitions in such section and such term shall be defined as `a combustible particulate solid or finely divided metal that presents a fire or deflagration hazard when suspended in air or some other oxidizing medium over a range of concentrations regardless of particle size and shape'.

(b) Procedure and Effective Date- The modifications of the standard required by subsection (a) shall be made and published in the Federal Register not later than 6 months after the date of enactment of this Act by the Secretary of Labor acting through the Occupational Safety and Health Administration without regard to the procedural requirements applicable to regulations promulgated under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) or the procedural requirements of chapter 5 of title 5, United States Code. Such revised standard shall take effect not later than 90 days after the publication in the Federal Register.

(c) Effect of Modifications- The modifications under this section shall be in force until superseded in whole or in part by regulations promulgated by the Secretary of Labor under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) and shall be enforced in the same manner and to the same extent as any rule or regulation promulgated under such section.