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(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R.

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

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

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 2013”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

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

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

24 (4) Fourteen workers were killed and more than
25 38 seriously injured in a catastrophic combustible

1 dust explosion at Imperial Sugar in Port Wentworth,
2 Georgia on February 7, 2008.

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

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

15 (7) Combustible dust explosions and fires con-
16 tinue to injure workers and cause property damage.
17 In the 5 years since the February 7, 2008, explosion
18 at Imperial Sugar, there have been 50 additional
19 combustible dust explosions or fires resulting in 15
20 deaths and 127 injuries to workers through Feb-
21 ruary 7, 2013, according to estimates released by
22 the Chemical Safety Board.

23 (8) On October 21, 2009, OSHA issued an ad-
24 vance notice of proposed rulemaking in response to
25 the CSB's recommendation; however, a final rule

1 will take at least 4 more years, during which it is
2 foreseeable that additional workers will be seriously
3 injured or killed.

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

9 (10) No OSHA standard comprehensively ad-
10 dresses combustible dust explosion hazards in gen-
11 eral industry.

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

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

24 (B) other requirements include conven-
25 tional ignition source control and dust emission

1 control technologies, such as ventilation systems
2 that capture fugitive dust, and enclosure of
3 dust generating processes;

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

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

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

17 **SEC. 3. ISSUANCE OF INTERIM STANDARD ON COMBUS-**
18 **TIBLE DUST.**

19 (a) APPLICATION AND RULEMAKING.—Not later than
20 1 year after the date of enactment of this Act, the Sec-
21 retary of Labor shall promulgate an interim final standard
22 regulating occupational exposure to combustible dust haz-
23 ards. The interim final standard shall, at a minimum,
24 apply to manufacturing, processing, blending, conveying,
25 repackaging, and handling of combustible particulate sol-

1 ids and their dusts, including organic dusts (such as
2 sugar, candy, paper, soap, and dried blood), plastics, sul-
3 fur, wood, rubber, furniture, textiles, pesticides, pharma-
4 ceuticals, fibers, dyes, coal, metals (such as aluminum,
5 chromium, iron, magnesium, and zinc), fossil fuels, and
6 others determined by the Secretary, but shall not apply
7 to processes already covered by the occupational safety
8 and health standard on grain facilities contained in section
9 1910.272 of title 29, Code of Federal Regulations.

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

14 (1) apply to existing facilities; or

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

19 (c) REQUIREMENTS.—The interim final standard re-
20 quired under this section shall include the following ele-
21 ments:

22 (1) Requirements for hazard assessment to
23 identify, evaluate, and control combustible dust haz-
24 ards.

1 (2) Requirements for a written program that
2 includes provisions for hazardous dust inspection,
3 testing, hot work, ignition control, and house-
4 keeping, including the frequency and method or
5 methods used to minimize accumulations of combus-
6 tible dust on ledges, floors, equipment, and other ex-
7 posed surfaces.

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

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

19 (5) Requirements for participation of employees
20 and their representatives in hazard assessment, de-
21 velopment of and compliance with the written pro-
22 gram, incident investigation, and other elements of
23 hazard management.

24 (6) Requirements to provide written safety and
25 health information and annual training to managers

1 and employees and their representatives, including
2 housekeeping procedures, hot work procedures, pre-
3 ventive, predictive, and periodic maintenance proce-
4 dures, common ignition sources, and lock-out, tag-
5 out procedures.

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

14 (e) **EFFECTIVE DATE OF INTERIM STANDARD.**—The
15 interim final standard shall take effect 30 days after
16 issuance, except that such standard may include a reason-
17 able phase-in period for implementation of required engi-
18 neering controls. The interim final standard shall have the
19 legal effect of an occupational safety and health standard,
20 and shall apply until a final standard becomes effective
21 under section 6 of the Occupational Safety and Health Act
22 (29 U.S.C. 655).

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

24 Not later than 18 months after the date on which
25 the interim final standard is issued under section 3, the

1 Secretary of Labor shall, pursuant to section 6 of the Oc-
2 cupational Safety and Health Act (29 U.S.C. 655), issue
3 a proposed rule for regulating combustible dust explosions
4 that includes the major elements contained in the interim
5 final standard issued under section 3, and shall issue a
6 final rule 3 years after the issuance of a proposed rule.