

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5522  
OFFERED BY MS. WOOLSEY**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

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

**4 SEC. 2. FINDINGS.**

5       Congress finds the following:

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

8           (2) 13 workers were killed and more than 60  
9       seriously injured in a catastrophic combustible dust  
10       explosion at Imperial Sugar in Port Wentworth,  
11       Georgia on February 7, 2008.

12          (3) Following 3 catastrophic dust explosions  
13       that killed 14 workers in 2003, the Chemical Safety  
14       and Hazard Investigation Board (CSB) issued a re-  
15       port in November 2006, which identified 281 com-  
16       bustible dust incidents between 1980 and 2005 that  
17       killed 119 workers and injured 718. The CSB con-

1       cluded that “combustible dust explosions are a seri-  
2       ous hazard in American industry”.

3           (4) A quarter of the explosions occurred at food  
4       industry facilities, including sugar plants. Seventy  
5       additional combustible dust explosions have occurred  
6       since 2005.

7           (5) Material Safety Data Sheets (MSDSs) often  
8       do not adequately address the hazards of combus-  
9       tible dusts, and the OSHA Hazard Communication  
10      Standard (HCS) inadequately addresses dust explo-  
11      sion hazards and fails to ensure that safe work prac-  
12      tices and guidance documents are included in  
13      MSDSs.

14          (6) The CSB recommended that OSHA issue a  
15      standard designed to prevent combustible dust fires  
16      and explosions in general industry, based on current  
17      National Fire Protection Association (NFPA) dust  
18      explosion standards.

19          (7) The CSB also recommended that OSHA re-  
20      vise the Hazard Communication Standard (HCS)  
21      (1910.1200) to clarify that combustible dusts are  
22      covered and that Material Safety Data Sheets con-  
23      tain information about the hazards and physical  
24      properties of combustible dusts.

1           (8) OSHA has not initiated rulemaking in re-  
2           sponse to the CSB's recommendation.

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

8           (10) No Occupational Safety and Health Ad-  
9           ministration standard comprehensively addresses  
10          combustible dust explosion hazards in general indus-  
11          try.

12          (11) Voluntary National Fire Protection Asso-  
13          ciation standards exist which, when implemented, ef-  
14          fectively reduce the likelihood and impact of combus-  
15          tible dust explosions.

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

17          (a) INTERIM STANDARD.—

18           (1) APPLICATION AND RULEMAKING.—Notwith-  
19          standing any other provision of law, not later than  
20          90 days after the date of enactment of this Act, the  
21          Secretary of Labor shall promulgate an interim final  
22          standard regulating combustible dusts. The interim  
23          final standard shall, at a minimum, apply to manu-  
24          facturing, processing, blending, conveying, repack-  
25          aging, and handling of combustible particulate solids

1 and their dusts, including organic dusts (such as  
2 sugar, candy, paper, soap, and dried blood), plastics,  
3 sulfur, wood, rubber, furniture, textiles, pesticides,  
4 pharmaceuticals, fibers, dyes, coal, metals (such as  
5 aluminum, chromium, iron, magnesium, and zinc),  
6 fossil fuels, and others determined by the Secretary,  
7 but shall not apply to processes already covered by  
8 OSHA's standard on grain facilities (29 C.F.R.  
9 1910.272).

10 (2) REQUIREMENTS.—The interim final stand-  
11 ard required under this subsection shall include the  
12 following:

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

16 (B) Requirements for a written program  
17 that includes provisions for hazardous dust in-  
18 spection, testing, hot work, ignition control, and  
19 housekeeping, including the frequency and  
20 method or methods used to minimize accumula-  
21 tions of combustible dust on ledges, floors,  
22 equipment, and other exposed surfaces.

23 (C) Requirements for engineering, admin-  
24 istrative controls, and operating procedures  
25 such as means to control fugitive dust emissions

1 and ignition sources, the safe use and mainte-  
2 nance of dust producing and dust collection sys-  
3 tems and filters, minimizing horizontal surfaces  
4 where dust can accumulate, and sealing of  
5 areas inaccessible to housekeeping.

6 (D) Requirements for housekeeping to pre-  
7 vent accumulation of combustible dust in places  
8 of employment in such depths that they can  
9 present explosion, deflagration, or other fire  
10 hazards, including safe methods of dust re-  
11 moval.

12 (E) Requirements for employee participa-  
13 tion in hazard assessment, development of and  
14 compliance with the written program, and other  
15 elements of hazard management.

16 (F) Requirements to provide written safety  
17 and health information and annual training to  
18 employees, including housekeeping procedures,  
19 hot work procedures, preventive maintenance  
20 procedures, common ignition sources and lock-  
21 out, tag-out procedures.

22 (3) PROCEDURE.—The requirements in this  
23 section shall take effect without regard to the proce-  
24 dural requirements applicable to regulations promul-  
25 gated under section 6(b) of the Occupational Safety

1 and Health Act of 1970 (29 U.S.C. 655(b)) or the  
2 procedural requirements of chapter 5 of title 5,  
3 United States Code.

4 (4) EFFECTIVE DATE OF INTERIM STAND-  
5 ARD.—The interim final standard shall take effect  
6 30 days after issuance. The interim final standard  
7 shall have the legal effect of an occupational safety  
8 and health standard, and shall apply until a final  
9 standard becomes effective under section 6 of the  
10 Occupational Safety and Health Act (29 U.S.C.  
11 655).

12 (b) FINAL STANDARD.—

13 (1) RULEMAKING.—Not later than 18 months  
14 after the date of enactment of this Act, the Sec-  
15 retary of Labor shall, pursuant to section 6 of the  
16 Occupational Safety and Health Act (29 U.S.C.  
17 655), promulgate a final standard regulating com-  
18 bustible dust explosions.

19 (2) REQUIREMENTS.—The final standard re-  
20 quired under this subsection shall include the fol-  
21 lowing:

22 (A) The scope described in subsection  
23 (a)(1).

24 (B) The worker protection provisions in  
25 subsection (a)(2).

1 (C) Requirements for managing change of  
2 dust producing materials, technology, equip-  
3 ment, staffing, and procedures.

4 (D) Requirements for building design such  
5 as explosion venting, ducting, and sprinklers.

6 (E) Requirements for explosion protection,  
7 including separation and segregation of the haz-  
8 ard.

9 (F) Relevant and appropriate provisions of  
10 National Fire Protection Association combus-  
11 tible dust standards, including the “Standard  
12 for the Prevention of Fire and Dust Explosions  
13 from the Manufacturing, Processing, and Han-  
14 dling of Combustible Particulate Solids”  
15 (NFPA 654), “Standard for Combustible Met-  
16 als” (NFPA 484), and “Standard for the Pre-  
17 vention of Fires and Dust Explosions in Agri-  
18 cultural and Food Processing Facilities”  
19 (NFPA 61).

20 **SEC. 4. REVISION OF THE HAZARD COMMUNICATION**  
21 **STANDARD.**

22 (a) REVISION REQUIRED.—Notwithstanding any  
23 other provision of law, not later than 6 months after the  
24 date of enactment of this Act, the Secretary of Labor shall  
25 revise the hazard communication standard in section

1 1910.1200 of title 29, Code of Federal Regulations, by  
2 amending the definition of “physical hazard” in subsection  
3 (c) of such section to include “a combustible dust” as an  
4 additional example of such a hazard.

5 (b) EFFECT OF MODIFICATIONS.—The modification  
6 under this section shall be in force until superseded in  
7 whole or in part by regulations promulgated by the Sec-  
8 retary of Labor under section 6(b) of the Occupational  
9 Safety and Health Act of 1970 (29 U.S.C. 655(b)) and  
10 shall be enforced in the same manner and to the same  
11 extent as any rule or regulation promulgated under section  
12 6(b).

13 (c) EFFECTIVE DATE.—The modification to the haz-  
14 ard communication standard required shall take effect  
15 within 30 days after the publication of the revised rule.