The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. OBERSTAR) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1195.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 358, nays 51, answered ''present'' 11, not voting 11, as follows:

[Roll No. 229]

YEAS—358

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Altmire
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Butterfield
Buyer
Calvert
Camp (MI)
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Donnelly
Drake
Dreier
Duncan
Edwards
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Ferguson
Filner
Fortenberry
Fossella
Foster
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gonzalez
Goode
Goodlatte
Graves
Green, Al
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hayes
Heller
Herseth Sandlin
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Klein (FL)
Knollenberg
Kucinich
Kuhl (NY)
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Pearce
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Roskam
Ross
Rothman
Ruppersberger
Ryan (OH)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wittman (VA)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NAYS—51

Akin
Barton (TX)
Blackburn
Brady (TX)
Broun (GA)
Burgess
Burton (IN)
Campbell (CA)
Cannon
Carter
Chabot
Davis (KY)
Doolittle
Ehlers
Feeney
Flake
Foxx
Franks (AZ)
Garrett (NJ)
Gohmert
Hensarling
Herger
Hoekstra
Inglis (SC)
Johnson, Sam
Jordan
King (IA)
LaHood
Lamborn
Linder
Lungren, Daniel E.
Manzullo
Marchant
Miller (FL)
Musgrave
Neugebauer
Nunes
Paul
Putnam
Rohrabacher
Royce
Ryan (WI)
Sensenbrenner
Sessions
Shadegg
Shimkus
Souder
Stearns
Tancredo
Thornberry
Wilson (SC)

ANSWERED ''PRESENT''—11

Barrett (SC)
Bonner
Delahunt
Doyle
Green, Gene
Hastings (WA)
Jones (OH)
Kline (MN)
McCaul (TX)
Roybal-Allard
Weller

NOT VOTING—11

Andrews
Doggett
Forbes
Gordon
Granger
Higgins
Hill
Payne
Pence
Rush
Wexler

□ 1644

Mr. ROYCE changed his vote from ''yea'' to ''nay.''

Mr. DELAHUNT changed his vote from ''yea'' to ''present.''

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5534

Ms. FALLIN. Madam Speaker, I ask unanimous consent to have my name removed from H.R. 5534, the Bear Protection Act of 2008.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oklahoma?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. MCGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 110–614) on the resolution (H. Res. 1167) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent that Members may have 5 legislative days to revise and extend their remarks and insert extraneous material on H.R. 5522.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMBUSTIBLE DUST EXPLOSION AND FIRE PREVENTION ACT OF 2008

The SPEAKER pro tempore. Pursuant to House Resolution 1157 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5522.

□ 1646

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the 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, with Mrs. CHRISTENSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Madam Chairman, I yield myself such time as I may consume.

I rise today in strong support of H.R. 5522, the Combustible Dust Explosion and Fire Prevention Act of 2008.

On February 7 of this year, a huge explosion ripped through the Imperial Sugar refinery in Port Wentworth, Georgia. Eight workers died instantly, and five more have died in the months since the explosion from the horrific

burns that they suffered. More than sixty workers were injured, some so seriously that they will never fully recover. This was a terrible disaster, one of our Nation's worst workplace tragedies of the past decade.

The cause of the explosion was combustible sugar dust. It may surprise many of us that sugar dust can explode with such violence. But it can, and so can many other dusts that are commonly found in U.S. industrial sites.

In 2003, three fatal dust explosions occurred in the United States, killing 14 workers. The U.S. Chemical Safety Board investigated these incidents. The board examined whether these tragedies were just coincidences or a major national problem. The Chemical Safety Board also examined whether there were adequate laws to protect workers or whether new protections were needed. The Chemical Safety Board found that these explosions were not coincidences. In fact, between 1980 and 2005, 119 workers had been killed and 718 injured in dust explosions that had also extensively damaged the industrial facilities. The Chemical Safety Board also found that there were no enforceable national regulations to prevent combustible dust incidents. Let me repeat that. The Chemical Safety Board also found that there were no enforceable national regulations to prevent combustible dust incidents.

The Chemical Safety Board concluded that controlling combustible dust explosions isn't a mystery. In fact, the first National Fire Protection Association standards to prevent combustible dust explosions were issued in 1923. In November of 2006, the Chemical Safety Board, an independent Federal agency whose members were all appointed by President George W. Bush, concluded that the only way to prevent more worker deaths was for OSHA to issue a comprehensive standard covering combustible dust. That was in November of 2006. But to this day, OSHA has taken no action to issue a standard. In fact, OSHA has refused to act despite the fact that 70 more combustible dust explosions have occurred since 2006.

Even now, after 13 needless deaths in Georgia, OSHA demonstrates no understanding of the urgency of this problem. This is a shocking failure by the very governmental agency responsible for keeping workers safe.

Sadly, this isn't the only time that OSHA has failed to act on a Chemical Safety Board recommendation, and it's not the only time where the result of that inaction has been the death of American workers. The Chemical Safety Board warned OSHA in 2002 that new rules were needed to prevent reactive chemical explosions, but OSHA refused to act. Then last December a reactive chemical explosion in Jacksonville, Florida, killed four workers.

Because OSHA refused to act, Congress must now act. Congressman JOHN BARROW and I have introduced H.R. 5522 to force OSHA to do the job it should have done on its own. The legislation will require OSHA to issue an interim standard on combustible dust within 90 days and a permanent standard within 18 months. It would require OSHA to base the new standard on the National Fire Protection Association standards.

OSHA says that the combustible dust hazards are already covered by numerous existing regulations. But that simply is not true. Most of the existing standards do not even mention the word ''dust'' and do nothing to educate or inform employers and employees how to prevent combustible dust explosions. Existing OSHA standards also do not address what levels of dust are safe, how to clean the dust safely, or how to prevent dust from accumulating to unsafe levels.

And it is not true, as opponents of this bill say, that we don't allow for public input. In fact, OSHA would have to conduct full public hearings and a small business review but to do so on an expedited basis that reflects the life-or-death urgency of this issue.

Because of the serious hazards imposed by combustible dust, because OSHA has issued no major standard during this administration except under pressure of the courts or the Congress, and because OSHA is unable to meet the regulatory deadlines it sets for itself, it is necessary to set some tight deadlines for action.

It is also not true that this bill requires OSHA to adopt the National Fire Protection Association standards. The bill requires OSHA to include only the relevant and appropriate provisions of the National Fire Protection Association combustible dust standards. While the National Fire Protection Association standards have proven to be effective, OSHA should use its discretion, after full public hearings and comments, to determine how the National Fire Protection Association guidelines should be used in a final standard.

You will hear opponents of this measure say we should wait until the OSHA investigation is completed and the results of OSHA's current National Emphasis Program are in. But we have waited long enough. And, in fact, again, the Chemical Safety Board recommendations predate that accident based upon the urgent need for these regulations to save American workers' lives and to prevent their injuries prior to that time.

Again, if OSHA doesn't act, we must. We know that most businesses are doing the best they can to make their workplace safe. But it is also clear that other businesses may not be doing enough to ensure the safety of their employees. The bottom line is that workers need protection and the agency established by Congress 37 years ago to protect workers has once again failed in that duty.

The goal today is to protect workers from those preventable explosions, and we believe that this legislation accomplishes that goal without imposing unreasonable burdens on employers.

I want to leave the House with the closing words of a witness who appeared before the Education and Labor Committee, Tammy Miser. Tammy Miser's brother, Shawn Boone, was killed in a combustible dust explosion in 2003. Tammy recounted the terrible suffering that her brother went through before he died, her hopes that something would happen after the Chemical Safety Board recommendations were issued, and her disappointment that OSHA has yet to act, even after the Imperial Sugar explosion.

Tammy left us with this one request: ''that you not let our loved ones die in vain and help us keep other families safe from the dangers of combustible dust.''

It's the least we can do for Shawn Boone, the workers in Port Wentworth, and the many other workers who have needlessly lost their lives.

Madam Chairman, I strongly urge that all of my colleagues will support H.R. 5522.

Madam Chairman, I reserve the balance of my time.

Mr. MCKEON. Madam Chairman, I yield myself such time as I may consume.

I rise in opposition to the bill at this time and in this form.

Consideration of this bill is a somber occurrence. It reminds us that less than 3 months ago, workers at the Imperial Sugar refinery in Port Wentworth, Georgia, lost their lives to a tragic workplace accident. Even today many others remain injured.

As with any workplace accident of this magnitude, the Occupational Safety and Health Administration, or OSHA, was dispatched to the scene to investigate what went wrong. Preliminary reports indicate that the explosion was linked to combustible dust, a known hazard for which at least 17 OSHA standards currently apply.

OSHA has 6 months to complete its investigation, a time frame that I think is appropriate for any injury of this seriousness. I expect that investigation to provide us a thorough, candid examination of exactly what went wrong so that steps can be taken to prevent such an accident in the future.

Among the first questions OSHA needs to answer is whether existing safety guidelines were followed at the Imperial refinery. This question is fundamental. It will tell us whether the cause of this accident was a lack of sufficient safety standards or a failure to follow the standards that exist.

The bill before us today presumes that current safety standards were insufficient. But the truth is we don't yet know whether that is the case. Less than 3 months after the accident, OSHA has not even had an opportunity to complete its investigation. We cannot possibly provide effective new safety standards when we don't know which standards, if any, we're lacking.

I understand why we're here today. Like Chairman MILLER; Representatives BARROW and KINGSTON, who represent the refinery and surrounding areas; and all Members of this body, I grieve for the workers who lost their lives. But making an end run around a proven process for establishing workplace safety guidelines is the wrong answer at the wrong time.

The bill before us proposes a highly proscriptive regulatory mandate in an excruciatingly compressed time frame. More concerning still, OSHA, the agency that would be responsible for implementing these new requirements, does not believe this bill will produce the most effective safety measures.

□ 1700

Of course, this is not to say that we should do nothing in the face of such an accident. To the contrary. I believe OSHA has a responsibility to complete a thorough, aggressive investigation of the accident at the Imperial Sugar refinery to determine its causes and consider whether additional regulatory guidance is needed. If it becomes clear that existing standards are ineffective, OSHA should move forward with a robust regulatory process that provides clearer, more effective guidance on combustible dust.

I want to be clear on this point. This bill at this time, and in this form, is not the only opportunity to strengthen safety standards for combustible dust. OSHA itself has not ruled out additional regulations if it becomes clear that the 17 existing standards that apply to workplaces with combustible dust hazards are not effective or clear enough to protect workers.

The danger of combustible dust in the workplace is a serious concern, and I am committed to appropriate and effective safety measures. That is why we plan to offer an alternative proposal today that calls for a more comprehensive approach that would include stakeholder input and expertise in any regulatory action that may be needed.

We had hoped to see another amendment made in order, as proposed by Representative KINGSTON. Because of the compressed timetable in the bill, OSHA will not have to take into account economic feasibility of the standard. Mr. KINGSTON's amendment would have simply asked that a study on the job losses resulting from the standard be reported to Congress. Surely it would not have been too much to ask whether Congress was exacerbating job losses in an already weakening economy. But, unfortunately, that amendment was not made in order.

Still, I continue to believe we can work together in good faith to protect worker safety without undermining the proven road to developing effective, enforceable safety protections.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. I yield 4 minutes to the gentlewoman from California (Ms. WOOLSEY), the Chair of the subcommittee.

Ms. WOOLSEY. This past Monday was Workers Memorial Day. Workers Memorial Day is the day when we remember those who have lost their lives or have been injured as a result of unsafe health and safety conditions in the workplace. On Workers Memorial Day we also recommit to the fight for safe working conditions for every single worker in America.

So, Madam Chairwoman, it's fitting that today we are considering H.R. 5522, the Worker Protection Against Combustible Dust Explosions and Fires Act, which was introduced by Chairman MILLER and Representative BARROW, a bill that requires OSHA to develop a standard for combustible dust. I am proud to be a cosponsor of that bill, and I want to commend Chairman MILLER and Representative BARROW because they introduced it.

Like other Members of Congress, I was absolutely shocked and saddened by the combustible dust explosion at the Imperial Sugar Company in Port Wentworth, Georgia, which resulted in 13 deaths and 60 injuries. My heart goes out to the families of those who died, and my hopes and prayers, all of our hopes and prayers are with those workers who were seriously injured. The survivors have a tough road ahead of them.

Unfortunately, Madam Chairwoman, this explosion, like so many other workplace incidents that have occurred lately, could have been prevented. That is the most important part of it. It didn't need to happen. Lives were senselessly lost, and more workers remain in critical condition.

That is why immediately after the explosion, Chairman MILLER and I sent a letter to OSHA demanding that the agency begin work on a standard for combustible dust. Such a standard was recommended not last year, but longer than that ago, a year and a half ago, at least, by the Chemical Safety Board. That is an independent Federal agency charged with investigating chemical accidents. But OSHA has failed to act on this recommendation, and unfortunately, but not surprisingly, OSHA has failed to respond to our letter in a timely manner.

So that is why we in Congress need to act, and we need to act now. We must act just as we did when we passed H.R. 2693, the Popcorn Lung Disease Prevention Act. That was legislation that requires OSHA to issue an emergency temporary standard to regulate workers' exposure to diacetyl, a chemical used in butter flavoring for microwave popcorn and other food products, a chemical that was killing and injuring workers.

I wish that we could trust OSHA under this administration to do the job that was laid out for them. But we cannot. So that is why I urge my colleagues to pass H.R. 5522. Take care of our workers.

Mr. MCKEON. Madam Chairman, I yield to the subcommittee ranking member that has jurisdiction over this issue, the gentleman from Minnesota (Mr. KLINE), such time as he may consume.

Mr. KLINE of Minnesota. I thank the gentleman for yielding.

Madam Chairman, I rise in support of workplace safety, but in opposition to H.R. 5522, the Combustible Dust Explosion and Fire Prevention Act. We all share, I believe, the common goal of working to protect employees from hazards in the workplace. The accident at the Imperial Sugar refinery in Georgia is a tragedy. It must be fully investigated. The Department of Labor's Occupational Safety and Health Administration has undertaken the investigation that, by law, must be completed within 6 months. The results of this investigation will help identify the cause of the Imperial Sugar accident.

I appreciate the concern about workers' safety, but as lawmakers, we have the responsibility to debate and enact laws that are reasonable. The bill before us today is an impulsive attempt to rush into action before OSHA can complete the investigation.

Under this bill, OSHA will be required to adopt an interim rule within 90 days of enactment and a final rule within 18 months. This accelerated time frame is not only unrealistic, but would also deny stakeholder input ranging from industry, to academia, to organized labor, and other groups who could provide important and insightful contributions. By undermining the process, this legislation could have negative consequences and actually undercut workers' safety.

In a letter to the committee dated April 8, 2008, the Department of Labor's Assistant Secretary for Occupational Safety and Health, Edwin Foulke, states: ''The time constraints of this legislation would give OSHA no choice but to ignore other statutory and regulatory requirements for rulemaking under the Occupational Safety and Health Act, the Regulatory Flexibility Act, the Administrative Procedures Act, numerous executive orders, and Office of Management and Budget bulletins and guidelines.''

H.R. 5522 also disregards the preventive efforts that have been under way well before the tragic accident in Georgia. Last year, based on the recommendations by the Chemical Safety Board, OSHA initiated a National Emphasis Program that aims to identify any gaps that may exist among the standards that currently apply to workplaces with combustible dust. While OSHA's opinion has been dismissed by the other side, yesterday the President issued a veto threat, reiterating serious concerns with this hasty regulatory proposal.

Again, we should not rush to legislative action. Rather, we should take the time to thoroughly and thoughtfully review all the facts. I urge my colleagues to vote ''no'' on this bill.

Mr. GEORGE MILLER of California. Madam Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. BARROW), the cosponsor of this legislation.

Mr. BARROW. I thank Chairman MILLER.

Madam Chairman, what we have learned in my community since the Imperial disaster hit us is the experts have known about this problems for decades. There have been voluntary standards that effectively deal with this problem, but not enough people even know about the problem, much less the solutions, and those who do know about the solutions, aren't required to adopt them.

We have also learned that the only standards that are mandatory really aren't designed with this problem in mind in the first place, and they aren't working. So we have good standards that are not mandatory and inadequate standards that are mandatory.

Up until now, the argument has been between those who say we wouldn't go too fast in developing a national standard and those who argue we are going too slow. There are those who argue the costs of a comprehensive solution outweigh the benefits. I disagree. I say that if we can prevent just one of these disasters from happening, if we can prevent just one family from having to go through what families at Imperial Sugar are still going through, it would all be worth it.

But don't take my word for it. The Savannah Morning News reported this morning that the chairman and chief executive officer of the National Safety Board believes this bill will, and I quote, ''would save lives.'' He believes that the measure ''is good for business and the corporate world should support it.''

He told the editorial board back home, ''I wish I could take 50 business people at a time to the refinery and have them take a look at the destruction. This is what your facility could look like if you don't take care of the dust.'' Mr. Bresland ought to know what he's talking about. He's not a bureaucrat, he's a ''hard-headed businessman from the corporate world'' who worked for many years at Honeywell International. He is right. This bill isn't just good government, it's also good business.

I commend Chairman MILLER and Ms. WOOLSEY for their hard work in support of this bill, and I urge my colleagues to join us and vote in favor of it.

Mr. MCKEON. I yield to the gentleman from Georgia (Mr. KINGSTON), who represents constituents that work in this sugar factory, and has been dealing with this problem now for 3 months. I am happy to yield him 4 minutes.

Mr. KINGSTON. I thank the ranking member and I thank the chairman of the committee, and my colleagues, Mr. BARROW and Ms. WOOLSEY, for their work on this. While I support many of the points of the ranking member, I believe that this bill is a step in the right direction and something that we are just going to have to push OSHA on.

The Imperial Sugar explosion, of course, was a very tragic accident, of which Mr. BARROW and I were involved in it. I actually was there the night that it happened and he and I went there for several days afterwards to look at the damage. I met with many of the families. It's a very sad thing. Sometimes in a situation like that it's hard to be objective in terms of what to support and what not to support, or what to change, especially since we don't know the exact cause of the accident; if any of the existing standards, for example, were violated, if a new standard would have prevented it, or if this is going to boil down to housekeeping, in which there would already be a violation and something a new standard or an old standard cannot address because the employer did not do what the employer is supposed to do, which would be to keep the workplace clean.

I share the goal of comprehensive worker safety, but sometimes the history of legislating it shows that if we move too quickly, then you might not get the goal that you want to do. Throughout its history, OSHA standards set in process has been governed by the Administrative Procedures Act. This generally requires a Federal agency to develop and draft proposed regulations, issue proposed rules and regulations in a transparent process that allows for comment and input from the stakeholders and incorporate any appropriate stakeholders' comments in the publication of the final rule.

The bill was improved greatly with the Woolsey substitute. That substitute moved more of the capital and equipment-intensive mandates to the final rule rather than the interim rule, including engineering, administration, workplace practices. It also moved the reference to the NFPA, the National Fire Protection Act, from the interim to the final rule, and making the language more flexible. Those were very good improvements. Lastly, it required that the 18-month final rule be made under the normal rule making process.

Now I understand that the chairman may offer further improvements during the floor debate tonight that may include making engineering controls required under the interim standard effective 6 months after the issuance of the interim rather than 30 days under the base bill in clarifying that the standard must be promulgated in accordance with normal OSHA rulemaking procedure including that that provides for the review of small businesses.

I think that that might a good step because the more input you get from the business community, the labor community, and the users, I think the better. That's why I offered an amendment that would have said that we should consider if there will be any job loss because of these rules or because of the interim rules. I was very disappointed that the Rules Committee did not allow my amendment to be considered on the floor because I think it would have been very helpful and something that certainly would have given bipartisan support to it.

□ 1715

One thing I also want to point out, OSHA can actually make rules themselves. The Assistant Secretary, Mr. Foulke, has stated, ''We have not ruled out the possibility of doing rulemaking, and that is an option for us still. But we are just trying to collect the data through the National Emphasis Program where we look at sites and determine do our standards actually cover what we need to cover? Or are there some holes in the coverage that we may need to address, and would a comprehensive standard address that.''

So we need to remember that if this bill gets bogged down somewhere along the line, that OSHA itself probably will come out with some sort of rule modification which could be helpful.

We have talked about the grain standard being a good standard.

The CHAIRMAN. The gentleman from Georgia's time has expired.

Mr. MCKEON. I yield the gentleman 1 additional minute.

Mr. KINGSTON. The leadership of the committee has said that the grain standard works fairly well. But I want to point out that this took 7 years, so maybe the reason the grain standard is working so well is that it took a long time and lots of input to pass. I would hope that we could take the lessons of the grain standard and not have to wait anywhere near 7 years, but say, hey, that will has already been invented. Let's apply what we found on the grain standard to this. I am hoping that the chairman's amendment addresses some of those things, but I am also confident that the Senate is going to do it as well.

Let me close by saying I believe under these circumstances that the committee has done a good job. I think there has been some solid input from the minority, and the majority has been listening. I do plan to support the bill, but I do think we have a lot more that we could do to improve it.

Ms. CORRINE BROWN of Florida. Madam Chairman, I rise in support of H.R. 5522, the Worker Protection Against Combustible Dust Explosion and Fire Act of 2008. This bill would require the U.S. Occupational Safety and Health Administration, OSHA, to issue rules regulating combustible industrial dusts, like sugar dust, that can build up to hazardous levels and explode.

Opponents of this bill claim that OSHA has enough existing standard and education materials to protect workers. However, I would strongly argue that the absence of clear OSHA standards puts thousands of American workers and innocent bystanders at risk from workplace hazards. Unfortunately, I have an example to back up my statement.

On December 19, 2007 there was a chemical explosion at the T2 Laboratories in Jacksonville, Florida. According to the U.S. Chemical Safety Board, CSB, this explosion was one of the worse chemical accidents in their

10-year history. Unfortunately, this isn't an isolated incident. A year earlier, there was another explosion in Daytona Beach at the Bethune Point Wastewater Plant. These two incidents demonstrate a critical need for stronger OSHA regulations.

In 2002, following a series of fatal explosions and a large number of deaths and injuries caused by runaway chemical reactions, the CSB issued a report concluding that reactive incidents are ''a significant chemical safety problem'' and that OSHA's Process Safety Management Standard, PSM standard, has ''significant gaps in coverage of reactive hazards.'' The study identified 167 serious reactive chemical accidents resulting in 108 fatalities in the U.S. over a 20 year period. The CSB therefore recommended that OSHA amend the PSM standard to better control reactive chemical hazards.

Reactive hazards rulemaking had been on OSHA's agenda during the Clinton administration as a result of a number of fatalities and a labor union petition, but the Bush administration removed it from the regulatory agenda.

OSHA's mission is to ensure employee safety and health and as OSHA is watching the progress of H.R. 5522, I ask that they review the 2002 recommendations by the Chemical Safety Board and revise the Process Safety Management standards to prevent further workplace accidents.

Mr. GENE GREEN of Texas. Madam Chairman, I rise in strong support of this bill to improve worker protections.

The Combustible Dust Explosion and Fire Prevention Act would force the U.S. Occupational Safety and Health Administration to issue rules regulating combustible industrial dusts, like sugar dust, that can build up to hazardous levels and explode.

While OSHA already has the authority to issue such a rule without Congress passing new legislation, the agency has failed to act despite the fact that the dangers of combustible dust have been well known for years.

In 2006, following a series of fatal combustible dust explosions, the U.S. Chemical Safety Board conducted a major study of combustible dust hazards.

It identified 281 combustible dust incidents between 1980 and 2005 that killed 119 workers, injured 718 others, and extensively damaged industrial facilities.

Time and time again we have seen this administration fail to take necessary actions to protect workers, and without action by Congress, it appears OSHA has no plans to act on combustible dust regulation.

As recently as February of this year, we saw the tragedy that can be caused by combustible dust explosions. The combustible dust explosion at the Imperial Sugar Company in Port Wentworth, Georgia, was a senseless tragedy that, like similar incidents, could have been prevented with OSHA regulation and oversight.

The bill has three main components. First, it directs OSHA to issue interim rules on combustible dust within 90 days. Second, it directs OSHA to issue final rules within 18 months. The rules would be based on effective voluntary standards devised by the National Fire Protection Association, a nonprofit organization, and in addition to items required in the interim rules, would include requirements for building design and explosion protection. Lastly, it directs OSHA to revise the Hazard Communication Standard to include combustible dusts.

Madam Chairman, I urge my colleague to join me in supporting this resolution to make sure OSHA takes necessary actions to protect workers.

Mr. BACA. Madam Chairman, I rise today to speak in support of H.R. 5522, the Combustible Dust Explosion and Fire Prevention Act of 2008.

H.R. 5522 would direct OSHA to improve engineering controls, and worker training.

OSHA would be directed to issue a final standard to include requirements for building design and explosion protection within 18 months; and to include combustible dusts in the Hazardous Communication Standard.

This bill reduces workplace hazards; Workers have a right to work in a safe environment with trustworthy safety standards;

Workers should not have to fear dust explosions or resultant fires;

In February, 6 people died and 42 were injured when sugar dust exploded in a silo at Imperial Sugar Company's largest refinery in Savannah, Georgia.

Families should not have to worry that their loved one will not return home due to a dust explosion.

OSHA must immediately protect workers in these plants.

I urge your support of H.R. 5522.

Ms. JACKSON-LEE of Texas. Madam Chairman, I rise today in strong support of H.R. 5522, requiring the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes. I would like to thank my distinguished colleague from California, Chairman of the Committee on Education and Labor, Representative GEORGE MILLER for his leadership on this important issue.

The Worker Protection Against Combustible Dust Explosion and Fire Act requires the U.S. Occupational Safety and Health Administration, OSHA, to issue rules regulating combustible industrial dusts, like sugar dust, that can build up to hazardous levels and explode. There are numerous occasions in recent history where combustible dust levels have resulted in explosions, killing and injuring numerous workers. On February 7, 2008, the Imperial Sugar refinery in Port Wentworth, Georgia, exploded, killing 13 workers and seriously injuring more than 60 others in a combustible dust explosion. The tragedy at Imperial Sugar shows that the threat of dust explosions is very real at industrial worksites across America and needs to be addressed immediately.

In 2003, there were a total of 3 catastrophic dust explosions that resulted in the death of 14 workers. These explosions prompted the Chemical Safety and Hazard Investigation Board, CSB, to issue a report in November 2006, identifying 281 conbustible dust incidents between 1980 and 2005 that resulted in the death of 119 workers and injured 718. The Chemical Safety and Hazard Investigation Board concluded their report finding, ''combustible dust explosions are a serious hazard in American industry.'' Since 2001, in case after case and industry after industry,

Since 2001, in case after case and industry after industry, OSHA has chosen to emphasize voluntary compliance over setting strong rules and enforcing them. Effective voluntary guidelines to control combustible dust hazards and prevent dust explosions already exist. But in order to truly protect workers, OSHA needs an enforceable standard in order to ensure industry compliance and to protect workers. Without an OSHA standard, many employers are unaware of the hazards of combustible dusts, while others have chosen not to adopt voluntary standards.

This important act directs OSHA to issue an interim final Combustible Dust standard within 90 days. The standard would include measures to minimize hazards associated with combustible dust through improved housekeeping, engineering controls, worker training and a written combustible dust safety program. This legislation also directs OSHA to issue a final standard within 18 months and fulfill all administrative rulemaking requirements including full public hearings, feasibility analysis and small business review. Lastly, H.R. 5522 directs OSHA to include combustible dusts in the Hazard Communication Standard which requires workers to receive information and training about the hazards they face on their jobs daily.

In addition, I would like to have seen companies submit certifications showing that they are in compliance of these sets of standards. This recommendation would ensure that companies follow the criteria outlined within this bill by certifying compliance. Also, the Secretary of Labor should do continuous inspections during the initial months of enactment, to ensure companies are in compliance.

Madam Chairman, this important legislation requiring the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes, is necessary in order to protect Americans across the Nation. This important Act will help to prevent further accidents from occurring within the workplace. For these reasons, I strongly support H.R. 5522 and urge all members to do the same.

Mr. MCKEON. Madam Chairman, I yield back the balance of my time.

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 5522

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) 13 workers were killed and more than 60 seriously injured in a catastrophic combustible dust explosion at Imperial Sugar in Port Wentworth, 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. The CSB concluded that ''combustible dust explosions are a serious hazard in American industry''.

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

(5) Material Safety Data Sheets (MSDSs) often do not adequately address the hazards of combustible dusts, and the OSHA Hazard Communication Standard (HCS) 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 (NFPA) dust explosion standards.

(7) The CSB also recommended that OSHA revise the Hazard Communication Standard (HCS) (1910.1200) to clarify that combustible dusts are covered and that Material Safety Data Sheets contain information about the hazards and physical properties of combustible dusts.

(8) OSHA has not initiated rulemaking in response to the CSB's recommendation.

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

(10) No Occupational Safety and Health Administration standard comprehensively addresses combustible dust explosion hazards in general industry.

(11) 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) APPLICATION AND RULEMAKING.—Notwithstanding any other provision of law, 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, at a minimum, apply to manufacturing, processing, blending, conveying, repackaging, and handling of combustible particulate solids and their dusts, including organic dusts (such as sugar, candy, paper, soap, and dried blood), plastics, sulfur, wood, rubber, furniture, textiles, pesticides, pharmaceuticals, fibers, dyes, coal, metals (such as aluminum, chromium, iron, magnesium, and zinc), fossil fuels, and others determined by the Secretary, 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 include the following:

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

(B) Requirements for a written program that includes provisions for hazardous dust inspection, testing, hot work, ignition control, and housekeeping, including the frequency and method or methods used to minimize accumulations of combustible dust on ledges, floors, equipment, and other exposed surfaces.

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

(D) Requirements for housekeeping to prevent accumulation of combustible dust in places of employment in such depths that it can present explosion, deflagration, or other fire hazards, including safe methods of dust removal.

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

(F) Requirements to provide written safety and health information and annual training to employees, including housekeeping procedures, hot work procedures, preventive maintenance procedures, common ignition sources, and lockout, tag-out procedures.

(3) PROCEDURE.—The requirements in this subsection shall take effect 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.

(4) EFFECTIVE DATE OF INTERIM STANDARD.—The interim final standard shall take effect 30 days after 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.—

(1) RULEMAKING.—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.

(2) REQUIREMENTS.—The final standard required under this subsection shall include the following:

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

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

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

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

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

(F) Relevant and appropriate provisions of National Fire Protection Association combustible dust standards, including the ''Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids'' (NFPA 654), ''Standard for Combustible Metals'' (NFPA 484), and ''Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities'' (NFPA 61).

SEC. 4. REVISION OF THE HAZARD COMMUNICATION STANDARD.

(a) REVISION REQUIRED.—Notwithstanding any other provision of law, not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall revise the hazard communication standard in section 1910.1200 of title 29, Code of Federal Regulations, by amending the definition of ''physical hazard'' in subsection (c) of such section to include ''a combustible dust'' as an additional example of such a hazard.

(b) EFFECT OF MODIFICATIONS.—The modification 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 section 6(b).

(c) EFFECTIVE DATE.—The modification to the hazard communication standard required shall take effect within 30 days after the publication of the revised rule.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 110–613. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–613.

Mr. GEORGE MILLER of California. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GEORGE MILLER of California:

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.

The CHAIRMAN. Pursuant to House Resolution 1157, the gentleman from California (Mr. GEORGE MILLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GEORGE MILLER of California. Madam Chairman, I yield myself 4 minutes.

This manager's amendment is offered because during the drafting and the refining of this bill we have had numerous extensive conversations with OSHA, with its technical staff and with affected industry associations about problematic issues. Our goal is to save workers lives, but also make these OSHA standards workable for businesses who need to implement them. To that end, the manager's amendment makes four adjustments to the bill:

One, several industry associations were concerned that the short 1-month effective date on the interim standards was too short to make some of the capital improvements that may be needed for engineering controls. The manager's amendment therefore provides for engineering controls required by

the interim standards shall be effective 6 months after the issuance of the standard, rather than 30 days.

Because emphasizing specific National Fire Protection Association standards was seen as putting more emphasis on some than on others that were not mentioned, the manager's amendment maintains the provisions that OSHA shall include appropriate and relevant National Fire Protection Association standards in its final standards, but eliminates reference to specific National Fire Protection Association standards.

Then, because we want to make perfectly clear that OSHA is expected to conduct a full review of small business impacts of this standard, the manager's amendment clarifies that the final standard shall be conducted in accordance with the usual rulemaking procedural requirements, including those that provide for a small business review.

Finally, it changes the title to ''The Worker Protection Against Combustible Dust Explosions and Fires Act.''

I would encourage all of my colleagues to support the manager's amendment.

I reserve the balance of my time.

Mr. MCKEON. Madam Chairman, I claim the time in opposition to the bill, although I do not expect to oppose it.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. MCKEON. Madam Chairman, although the changes in this amendment are modest, they are a step in the right direction. Unfortunately, they simply do not go far enough.

Specifically, this amendment includes a cosmetic change to the requirement that OSHA include National Fire Protection Association standards among its new mandates. As Chairman MILLER knows, the NFPA standards are voluntary guidelines that offer a far more complex, stringent protocol that may be adopted in whole or in part by industry participants. These guidelines play an important role as voluntary practices that can enhance safety efforts, but they are entirely inappropriate as a replacement for effective OSHA rulemaking.

So while I appreciate that this amendment removes a direct mandate for a specific NFPA standard, I remain deeply concerned that the amendment retains the requirement that OSHA include relevant and appropriate NFPA standards in the final rule. I fear that this may be a distinction without a difference.

The amendment includes other modest improvements, including a more reasonable time frame for implementation of the engineering controls in the interim standard. It also clarifies that the final rule would be developed under more normal and inclusive procedures. Both of these steps improve the underlying bill, but because they fail to fully address concerns about the bill's abbreviated timeline, they are half measures at best.

However, I do appreciate the gentleman's efforts, and I will support the amendment.

I yield back the balance of my time.

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GEORGE MILLER of California. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. WILSON OF SOUTH CAROLINA

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110–613.

Mr. WILSON of South Carolina. Madam Chairman, I have an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. WILSON of South Carolina:

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.

The CHAIRMAN. Pursuant to House Resolution 1157, the gentleman from South Carolina (Mr. WILSON) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. WILSON of South Carolina. Madam Chairman, I yield myself such time as I may consume.

While I share the majority's commitment to ensuring workplace safety, I believe the underlying bill fails to provide for the most effective means to ensure that safety.

Currently, there are several initiatives concerning dust under way at the Occupational Safety and Health Administration, OSHA. Since October, the agency has implemented a combustible dust National Emphasis Program. This agency has sent high hazard alert letters to over 30,000 businesses emphasizing the need to prevent dust from accumulating.

Most importantly, OSHA is in the midst of the investigation of the February disaster at the Imperial Sugar refinery. The Imperial Sugar refinery in Georgia is located in a community adjacent to the Second Congressional District of South Carolina, which I have the honor to represent.

Instead of undermining the progress of existing combustible dust safety efforts, this substitute requires the Department of Labor to gather all necessary information about the Imperial refinery explosion specifically, as well as the broader dust hazard being examined through the National Emphasis Program. Once that information has been gathered and analyzed, the Secretary of Labor will be able to determine whether and what type of combustible dust standard is necessary.

Should the Secretary determine that existing safety requirements can effectively protect against the combustible dust hazard, the Secretary will be required to report to Congress as to why no new regulatory framework is necessary. But if the National Emphasis Program and the results of the Imperial refinery investigation show that additional guidance and regulation are needed, this substitute requires OSHA to complete a rigorous regulatory process that includes all relevant stakeholders within a fixed time frame.

Our amendment will allow for the regulation to be completed expeditiously and thoroughly without circumventing the Occupational Safety and Health Act, the Regulatory Flexibility Act, the Administrative Procedures Act and other laws and regulations that ensure effective Federal regulations.

We have heard concerns from OSHA that the underlying bill will be difficult to comply with and difficult to enforce. This leaves workers at risk. I have trust in my constituent, Monty Felix of Sandy Run, South Carolina, who is the National President of the American Composites Manufacturers Association, to promote safety. We need the expertise of successful manufacturers.

Our goal today should be to move forward with the most effective strategy to ensure a safe workplace. I believe this substitute achieves that goal, and I urge my colleagues to vote in favor of this substitute.

I yield at this time to the ranking member from California (Mr. MCKEON).

Mr. MCKEON. I thank the gentleman for yielding and I am pleased to lend my support to this amendment.

As Representative WILSON has made clear, this amendment will ensure OSHA takes the necessary steps to protect workers against the hazards of combustible dust. It demands an aggressive investigation into the Imperial Sugar refinery, it requires that OSHA utilize the findings of its National Emphasis Program on dust hazards, and it calls for a comprehensive, inclusive and effective standard to be established if it becomes clear that existing safeguards are not protecting workers.

The amendment fulfills our shared commitment to workplace safety, and it does so without undermining the credibility of the rulemaking process. I urge its adoption.

Mr. WILSON of South Carolina. I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 15 minutes.

Mr. GEORGE MILLER of California. I yield myself such time as I may consume.

Madam Chairman, this amendment is an attempt to gut this legislation. This amendment would have OSHA not only wait for the outcome of the Imperial Sugar investigation, but also from findings from the combustible dust National Emphasis Program before deciding on whether or not to move forward. The National Emphasis Program could go on for years before there are findings. In fact, at the end of the day, OSHA could decide to do nothing.

To do nothing has turned out to be very expensive for the American workers in those workplaces where there is combustible dust. The track record is horrible with respect to OSHA preventing these dust explosions from taking place. That is the reason that prior to the most recent explosion that Mr. BARROW and I are trying to address, prior to that, the Chemical Safety Board made a recommendation to OSHA that they should promulgate these enforceable regulations, because there are no enforceable regulations with respect to dust currently in effect, except for what we did years ago in the grain industry.

□ 1730

Except for what we did years ago in the grain industry, and that dramatically reduced the number of incidents that took place. So to adopt the Wilson amendment is to adopt a position to do nothing, and to take an agency that has chosen time and again to do nothing in this field that any way provides for enforceable regulations of this most dangerous material when the workplace is not properly maintained and preventible actions are taken. That is just not acceptable. That is not acceptable in the name of the workers who died in the Port Wentworth plant. It is unacceptable to the workers who died earlier from the explosions.

OSHA has refused to act. They have not acted on a single standard in the entire last 8 years unless they were prodded by the Congress or the courts. So to now say that you are going to take the lives of American workers and you are going to give those lives again back to OSHA, where they have not seen any hazard, they have not seen any danger in spite of the explosions is just the height of irresponsibility by this Congress. And I would hope that the Congress would overwhelmingly reject this amendment that allows OSHA to continue the status quo that allows OSHA to continue its irresponsible position.

I reserve the balance of my time.

Mr. WILSON of South Carolina. Madam Chairman, I submit for the RECORD a letter dated April 29, 2008, from the OSHA Fairness Coalition, which is two dozen industry associations, relative to this issue.

OSHA FAIRNESS COALITION,
April 29, 2008.

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES

We write to express our strong opposition to the Combustible Dust Explosion and Fire Prevention Act of 2008, H.R. 5522 which will be considered on the House floor this week. While we were saddened to see the accounts of the explosion at the Imperial Sugar plant near Savannah, Georgia we do not believe this bill, as it was approved by the Education and Labor Committee, is an appropriate response to that tragedy or the hazards of combustible dust and urge you to oppose this bill.

While H.R. 5522 was improved in committee, we are still troubled by its mandate that OSHA promulgate an interim final regulation (IFR) within 90 days without any of the normal rulemaking procedures associated with OSHA rulemaking. The IFR would therefore be issued without any opportunity for comments by those subject to it, nor would OSHA perform any analyses such as those for significant risk, economic and technological feasibility, and small business impact, among others. The bill would then require that within 18 months OSHA promulgate a final standard that would carry forward all of the requirements of the IFR and add others mandating engineering, administrative, and work practice controls. The final standard would also have to incorporate provisions from various voluntary consensus standards issued by the National Fire Protection Association (NFPA). Further refinements from the Chairman that may be accepted on the floor do not alter the requirement for an IFR with none of the normal OSHA rulemaking protections.

We object to the short circuiting of the normal rulemaking process that this bill would impose. Normal OSHA rulemaking allows the agency to produce the most feasible, narrowly tailored regulation, which in turn maximizes the chances for implementation and compliance. Abandoning these procedures is a prescription for an ineffective regulation which will not produce safer workplaces. Indeed, even the Chemical Safety Board report referenced in this bill recommends that OSHA conduct a full rulemaking, and makes no mention of an IFR.

Additionally, instructing OSHA to incorporate provisions from voluntary consensus standards issued by the NFPA may sound like a good way to expedite rulemaking on this issue, but doing so is inappropriate. The process for producing these consensus standards is not at all like the process which OSHA undertakes to produce a regulation. There is no opportunity for the general public to examine and comment on these consensus standards. Nor are these standards subject to any of the critical reviews regarding quality of data, feasibility, and impact that OSHA regulations must undergo. The consensus process, which produces these standards, leaves significant terms and requirements intentionally vague and ambiguous so that different groups and interests will endorse these standards. But this also makes these standards unsuitable for becoming a mandatory OSHA regulation. Furthermore, none of the NFPA standards are fully available to the public without charge. While the NFPA has put them on their website for reading access, to print them, and therefore have them available for use, requires paying NFPA a fee. We object to giving NFPA such a windfall revenue stream.

The hazard of combustible dust is an issue which is already covered by numerous OSHA regulations, in addition to a wide array of private sector information. OSHA has responded in the wake of the Imperial Sugar explosion in various ways that will help employers become more knowledgeable about this hazard including reissuing a Safety and Health Information Bulletin, and reissuing a National Emphasis Program and targeting companies that may have combustible dust hazards in a way that will combine greater information with greater inspection and enforcement activity. The investigation of the tragedy at the Imperial Sugar plant has yet to determine that a lack of regulatory guidance contributed to the explosion and there is no evidence that a new OSHA standard would have prevented that tragedy, particularly if that regulation is produced in the manner specified in H.R. 5522. Providing employers with useful, practical information on how to avoid a hazard will always be more effective in preventing such disasters than issuing a new regulation which will only serve as a means for enforcement after the fact.

H.R. 5522 would produce a flawed regulation by discarding normal OSHA rulemaking procedures and because of this, we urge you to oppose the Combustible Dust Explosion and Fire Prevention Act of 2008, H.R. 5522.

Sincerely,

American Bakers Association.
American Composites Manufacturers Association.
American Forest & Paper Association.
American Foundry Society.
Associated Builders and Contractors.
Associated General Contractors.
Building Owners and Managers Association International.
Independent Electrical Contractors, Inc.
Mason Contractors Association.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Wholesaler-Distributors.
National Automobile Dealers Association.
National Federation of Independent Business.
National Marine Manufacturers Association.
National Mining Association.
National Paint and Coatings Association.
National Roofing Contractors Association.
Plumbing Heating Cooling Contractors National Association.
Printing Industries of America.
Retail Industry Leaders Association.
Textile Rental Services Association of America.
The Industrial Minerals Association—North America.

The National Industrial Sand Association.
The National Oilseed Processors Association.
The Society of the Plastics Industry, Inc.
U.S. Chamber of Commerce.

Additionally, I would like to bring the attention of our Members to the first and last paragraphs of that letter:

This coalition writes to express their strong opposition to the Combustible Dust Explosion and Fire Prevention Act of 2008, H.R. 5522, which will be considered on the House floor this week. While we were saddened to see the accounts of the explosion at the Imperial Sugar plant near Savannah, Georgia, we do not believe this bill, as was approved by the Education and Labor Committee, is an appropriate response to that tragedy or the hazards of combustible dust, and urge you to oppose the bill.

It concludes with the statement:

H.R. 5522 would produce a flawed regulation by discarding normal OSHA rulemaking procedures. And, because of this, we urge you to oppose the Combustible Dust Explosion and Fire Prevention Act of 2008, which is H.R. 5522.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. I yield 1 minute to the gentleman from Georgia (Mr. BARROW).

Mr. BARROW. I thank the gentleman for yielding.

I understand the appeal that the amendment has. I can appreciate its superficial appeal and what I think it is getting at. But the notion that we have to finish everything before we do anything is a formula to do nothing.

With the National Emphasis Program and everything that is going on right now at OSHA, it is perfectly obvious that the current folks who have got OSHA under their control can cram more activity into less action than anybody I know or any agency I know.

The time for us to take into consideration and to follow all leads and to learn as much as we can will always be with us, but the time to act is now. This is the time to take the actions and begin the process of fixing what's broke with the regulatory system at OSHA.

Mr. GEORGE MILLER of California. I thank the gentleman. I think the gentleman has the right to close on his amendment.

Could the Chair advise me of the time I have remaining.

The CHAIRMAN. The gentleman from California has 12½ minutes remaining.

Mr. GEORGE MILLER of California. I yield myself such time as I may consume.

I would just note that a significant number of the signatories to the letter that was referred to by my colleague on the other side of the aisle really have little or nothing to do with these standards or are impacted by them. And this is the same coalition that continues to call for no action with respect to actions by OSHA, and it is that approach to the protection of American workers and to the safety of those workers that has led to the tragedy that we witnessed at the Imperial Sugar facility. And, clearly, these are accidents that we know are preventable, that we know we can dramatically reduce because we have the experience from the grain dust standards.

This legislation is designed to be workable. It was worked, as I pointed out, with numerous conversations with the technical staff of OSHA, with the affected industries and the trade associations that are involved with this.

I would note that the National Fire Protection Association, when we tell OSHA that they should select the ones that are relevant to the standards and the ones that are meaningful to this effort, we are talking about standards in which a consensus has been arrived at within the industries. These are consensus regulations that are put out there, but they are not required. And we think that in our discussions again with the OSHA staff and with the associations this is a good place to start because of the consensus. There may have to be additions and subtractions, and that is within the discretion of OSHA during the process that is anticipated under this legislation.

So I would hope that we would reject this amendment by Mr. WILSON and that we would pass the underlying bill.

I reserve the balance of my time.

Mr. WILSON of South Carolina. Madam Chairman, indeed, I would like to commend Chairman MILLER and Congressman BARROW. I know that the intent is very positive to address a terrible tragedy that occurred in February at Port Wentworth with the Imperial refinery explosion.

I do want to point out that it has been stated that we do not have sufficient regulations relative to combustible dust, but that there are 17 standards addressing combustible dust which do apply, and would submit these for the RECORD.

APPENDIX A. STANDARDS ADDRESSING COMBUSTIBLE DUST

1910.272 Grain Handling.
1910.94 Ventilation Standard.
1910.22 Housekeeping.
1910.176 Housekeeping violations in storage areas.
1910.269 Housekeeping violations at coal-handling operations.
1910.132 Personal Protective Equipment (PPE).
1910.119 Process Safety Management.
1910.307(b) Electrical Violations
1910.178 Powered Industrial Trucks.
1910.252 Welding, cutting, and brazing.
1910.145 Warning Sign.
1910.1200 Hazard communication violations.
Subpart E—Means of Egress 1910.33–37
1910–156–157 Fire protection violations.
F1910.263 Bakery equipment violations.
1910. 265 Sawmill violations.
1928 Agriculture. The only provisions discussed in this NEP which may be cited in connection with agricultural operations are the hazard communication standard (see 29 CFR 1928.21) and the general duty clause. Industries in SIC 0723, Crop Preparation Services for Market, Except Cotton Ginning, listed in Appendix D, are engaged in agricultural operations.

Additionally, it has been stated that combustible dust maybe doesn't apply to some of the associations that are referenced in the letter that I previously handed in. I would like to point out that in fact it may appear that way, but just a few minutes ago I just met with members of the National Association of Home Builders. I am still a dues-paying member of the Greater Columbia Home Builders Association. And as we were discussing this bill with members who were visiting in my office, they expressed concern that they felt like that this could be negative toward the home building industry. So, indeed, it doesn't appear sometimes that things apply, but they do even where you wouldn't expect it.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. I would just say that the problem with home building is not explosions, it is implosions.

With that, I reserve the balance of my time.

Mr. WILSON of South Carolina. I would like to introduce appendix D, which are industries which may have combustible dust. And, indeed, Chairman MILLER and myself are learning that there is a broad array of industries, dozens of them, that could be impacted by combustible dust and I believe that we are actually helping by bringing this to the attention of the American people.

APPENDIX D—INDUSTRIES THAT MAY HAVE COMBUSTIBLE DUSTS

SICS	Industry	NAICS
0723	Crop Preparation Services for Market, Except Cotton Ginning.	115114, 115111
2052	Fresh cookies. crackers, pretzels, and similar "dry" bakery products.	311821
2062	Refining purchased raw cane sugar and sugar syrup.	311312
2087	Flavoring extracts, syrups, powders, and related products, not elsewhere classified.	311930
2099	Prepared foods and miscellaneous food specialties, not elsewhere classified..	311212
2221	Broadwoven Fabric Mills, Manmade Fiber and Silk.	313210
2262	Finishers of Broadwoven Fabrics of Manmade Fiber and Silk.	313311
2299	Textile Goods, Not Elsewhere Classified	31311
2421	Sawmills and Planning Mills, General	321113
2431	Millwork	321911
2434	Wood Kitchen Cabinets	33711
2439	Structural Wood Members, Not Elsewhere Classified.	321213, 321214
2452	Prefabricated Wood Buildings and Components.	321992
2493	Reconstituted Wood Products	321219
2499	Wood Products, Not Elsewhere Classified.	321920, 321219
2511	Wood Household Furniture, Except Upholstered.	337122
2591	Drapery Hardware and Window Blinds and Shades.	337920
2819	Industrial Inorganic Chemicals, Not Elsewhere Classified.	325188, 325998, 331311
2821	Plastic Materials, Synthetic Resins, and Nonvulcanizable Elastomers.	325211
2823	Cellulosic Manmade Fibers	325221
2834	Pharmaceutical Preparations	325412
2841	Soap and Other Detergents, Except Specialty Cleaners.	325611
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.	32551
2861	Gum and Wood Chemicals	325191
2899	Chemicals and Chemical Preparations, Not Elsewhere Classified.	325510, 325998
3011	Tires And Inner Tubes	326211
3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods.	326291
3069	Fabricated Rubber Products, Not Elsewhere Classified.	326299
3081	Unsupported Plastics Film and Sheet	326113
3082	Unsupported Plastics Profile Shapes	326121
3086	Plastics Foam Products	326140, 326150
3087	Custom Compounding of Purchased Plastics Resins.	325991
3089	Plastics Products, Not Elsewhere Classified.	326199

APPENDIX D—INDUSTRIES THAT MAY HAVE COMBUSTIBLE DUSTS—Continued

SICS	Industry	NAICS
3291	Abrasive Products	327910
3313	Alumina and Aluminum Production and Processing.	331312
3334	Primary Production of Aluminum	331312
3341	Secondary Smelting and Refining of Nonferrous Metals.	331314
3354	Aluminum Extruded Products	331316
3363	Aluminum Die-Castings	331521
3365	Aluminum Foundries	331524
3369	Nonferrous Foundries, Except Aluminum and Copper.	331528
3398	Metal Heat Treating	332811
3441	Metal Cans	332431
3469	Metal Stampings, Not Elsewhere Classified.	332116
3471	Electroplating, Plating, Polishing, Anodizing, and Coloring.	332813
3479	Coating, Engraving, and Allied Services, Not Elsewhere Classified.	332812
3496	Miscellaneous Fabricated Wire Products	332618
3499	Fabricated Metal Products, Not Elsewhere Classified.	332999
3548	Lighting Equipment, Not Elsewhere Classified.	335129
3644	Noncurrent-Carrying Wiring Devices	335932
3714	Motor Vehicle Parts and Accessories	336322
3761	Guided Missiles and Space Vehicles	336414
3799	Transportation Equipment, Not Elsewhere Classified.	333924
3995	Burial Caskets	339995
3999	Manufacturing Industries, Not Elsewhere Classified.	321999, 325998, 326199
4221	Farm product warehousing and storage	493130
4911	Electric Services Establishments engaged in the generation, transmission, and/or distribution of electric energy for sale.	221112
4952	Sanitary treatment facilities	221320
4953	Refuse Systems	562920
5093	Scrap and waste materials	423930
5162	Plastics materials and basic forms and shapes.	424610

I reserve the balance of my time.

Mr. GEORGE MILLER of California. I would hope that people would vote against the Wilson amendment. The people who are truly impacted by combustible dust are the workers who have been killed in the past and the workers that will be killed and injured in the future if we do not have an enforceable standard. I appreciate you have 17 regulations and all these things that OSHA is yakking about now, after years of doing nothing. The fact of the matter is, according to the Chemical Safety Board, they are not enforceable standards with respect to dust.

I yield back the balance of my time.

Mr. WILSON of South Carolina. Madam Chairman, I do urge my colleagues to support the amendment. The amendment is really, I believe, quite simple. It provides for a sequence of investigation, development of regulations, and promoting safety in the workplace.

I urge a positive vote on the amendment this evening.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. WILSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WILSON of South Carolina. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina will be postponed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 110–613 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. GEORGE MILLER of California.

Amendment No. 2 by Mr. WILSON of South Carolina.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. GEORGE MILLER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 412, noes 0, not voting 24, as follows:

[Roll No. 230]

AYES—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Bonner
Bono Mack
Boozman
Bordallo
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Chabot
Chandler
Christensen
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Donnelly
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Faleomavaega
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fortenberry
Fossella
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Norton
Nunes
Oberstar
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Pearce
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—24

Andrews
Barton (TX)
Blunt
Boehner
Boustany
Cole (OK)
Davis, Tom
Doggett
Duncan
Forbes
Fortuño
Goodlatte
Higgins
Hill
Hoyer
Issa
Jones (OH)
Lee
Obey
Payne
Pence
Rush
Sánchez, Linda T.
Wynn

□ 1806

Mr. SESSIONS changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. WILSON OF SOUTH CAROLINA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. WILSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 178, noes 237, answered ''present'' 1, not voting 20, as follows:

[Roll No. 231]

AYES—178

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Bean
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Bonner
Bono Mack
Boozman
Boren
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Conaway
Costa
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Deal (GA)
Dent
Doolittle
Drake
Dreier
Ehlers
Emerson
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
Latta
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOES—237

Abercrombie
Ackerman
Allen
Altmire
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bordallo
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Christensen
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Foster
Frank (MA)
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Kingston
Klein (FL)
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

ANSWERED ''PRESENT''—1

Johnson (IL)

NOT VOTING—20

Andrews
Barton (TX)
Blunt
Boehner
Boustany
Cole (OK)
Davis, Tom
Doggett
Duncan
Forbes
Fortuño
Goodlatte
Higgins
Hill
Issa
Jones (OH)
Payne
Pence
Rush
Wynn

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). There are less than 2 minutes remaining in this vote.

□ 1815

Ms. LINDA T. SÁNCHEZ of California changed her vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. BALDWIN) having assumed the chair, Mrs. CHRISTENSEN, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration 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, pursuant to House Resolution 1157, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WALBERG

Mr. WALBERG. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WALBERG. Yes, I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Walberg moves to recommit the bill, H.R. 5522, to the Committee on Education and Labor with instructions to report the bill back to the House forthwith with the following amendment:

At the end of the bill insert the following:

SEC. 5. EXEMPTION FOR GRAIN PENDING DETERMINATION OF IMPACT ON PRICES.

Neither the interim nor final standards required under this Act shall apply to any organic dust which is a food grain until the Secretary makes a determination that the application of such standard or standards will not increase the domestic price of such food grain.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for 5 minutes.

Mr. WALBERG. Thank you, Madam Speaker.

This motion to recommit is simple and straightforward. It maintains our

commitment to safety. And it does nothing—I repeat nothing—to prevent OSHA from developing a combustible dust safety standard.

This motion is simply a way for us to tell our constituents, the hardworking families who are struggling with the rising cost of living and an uncertain economy, that we're sensitive to their concerns; that we recognize that rising food costs, in particular, are a difficult burden to bear for many families; and that we know that in these difficult times, the very last thing we should be doing is driving up the cost of food for our children and our families.

The motion I have offered makes clear that the new mandates included in this bill will not be imposed on food grain production until we have determined that it will not cause an increase in prices at the grocery store.

During today's debate, we heard numerous objections to this bill, including its impact on the grain and feed industry that is so integral to food production and distribution in this country. I know that Members on both sides of the aisle have heard directly from the grain industry on this measure, and many of us have wondered how we can enhance worker safety without unnecessarily driving up food costs.

The answer, Madam Speaker, is to pass this motion to recommit.

By voting ''yes'' on this motion, OSHA will still be required to begin immediate development of a combustible dust standard. By voting ''yes'' on this motion, there will be no delay in implementation of these new rules for facilities that do not handle food grains. And lest anyone be concerned about the workers at facilities producing the grains we eat, if we pass this measure, these workers will continue to be protected as well under the same standard that has already produced a 60 percent reduction in grain facility explosions.

Feed, corn, and flour mills are already covered by existing OSHA grain-handling regulations. As a member of both the House Education and Labor Committee and Agriculture Committee, I understand that the food manufacturing industry is affected by combustible dust as much as any other industry.

Reregulating and duplicating existing Federal regulations on American family farmers and small rural businesses could seriously impact commodity prices and drive up the cost of everything from a loaf of bread to a gallon of gasoline.

I find it ironic that at the same time the leaders within the majority party are advocating for up to $300 million in additional spending for international food aid in the supplemental, these same folks are simultaneously considering legislation that could further drive up the price of food here at home.

My motion to recommit ensures we conduct a thorough economic analysis on the impact of H.R. 5522 on food prices. This MTR will ensure we do not unnecessarily cause irreparable harm to family farms, agricultural producers and American consumers by driving up the price of food because of another unintended consequence in the majority's continued rush to regulate first and ask questions later.

I urge my colleagues to vote ''yes.''

Mr. GEORGE MILLER of California. Madam Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Madam Speaker and Members of the House, this is a very serious piece of legislation and a very important piece of legislation. The idea that we would delay this until some time that the Secretary of Labor could make some certification about its impact on food costs is really unacceptable.

Let's look at the record of the Secretary of Labor. Since January 1980 until 2006, there were 281 explosions in these kinds of facilities due to dust. Seven hundred eighteen people were injured and 119 died in those explosions. One hundred nineteen bread-winners were killed in those explosions. That's the result of a study from the Chemical Safety Board of whose members are all appointed by President George W. Bush, an independent agency that may be the gold standard in terms of independent review of accidents.

They then recommended that OSHA adopt dust standards. OSHA did nothing. Did nothing. No enforceable standards were adopted by that point. No enforceable standards at all. And then in February 2008, the Imperial Sugar plant exploded.

In the meantime, 67 explosions took place since the Chemical Safety Board recommended the standard. Five hundred seventy-five injuries and 14 deaths took place before OSHA did anything. And the Chemical Safety Board recommendations continue to say there are no enforceable standards with respect to dust. Not only does it devastate the lives of these individuals and their families and the community, it devastates the facility, a facility here that is key to the commerce of that area. So talk about an impact on price in a tight market when these facilities start pumping up.

The feed and grain people, they're under their own standards. And what is their analysis of that standard? That it drove technologies, it drove better design, and better productivity in their markets. That's their findings. They're not implicated in these standards. What happened there? Eight people were killed in the explosion, 20 were put into medically induced comas for a number of weeks, 5 of those died, and 3 are still in the hospital.

Since the Chemical Safety Board made its recommendation, there have been 67 explosions, and OSHA never found the urgency to protect these workers. Now to come along and to be so cynical as to suggest that if we could just keep killing the workers, the price of food will stay down.

You know, it's funny. I read the papers, read the business journal, read The Wall Street Journal, and they're talking about how the price of food has driven the profits of the grain companies; but when they talk about why it's gone up, it says, ''The crisis stems from a combination of heightened demand for food from fast-growing developing countries like China and India, low grain stockpiles caused by bad weather, rising fuel prices and the increasing amount of land used to grow crops for ethanol'' and others.

Some people say it's because Zimbabwe has quit producing food under the corrupt regime of Mr. Mugabe, so Africa has a double problem. I see the Governor of Texas, Mr. Rick Perry, thinks we ought to cut back on ethanol production. He doesn't think we ought to keep killing American workers. Nowhere in this paper, The Wall Street Journal mind you, nowhere in this paper, when you read about food prices, do you see any mention that we ought to continue to subsidize food prices by blowing up processing plants and killing and injuring workers. Nowhere do you see that except, perhaps, in this amendment.

□ 1830

We ought not to accept this amendment. These workers and this critical industry are entitled to this protection. And the facts on the ground are: The last time we put in a standard was for the feed and grain industry, and it has turned out to be wildly successful. Why is it wildly successful? Because injuries went down 40 percent, fatalities went down 60 percent, explosions went down 60 percent.

Don't you think we know enough now to think that these other workers in this industry are entitled to this protection? But OSHA has done nothing. OSHA has done nothing. And if OSHA is not going to act, we must. In this administration, OSHA has only acted when prodded by the courts or the Congress, never on their own. Never on their own have they suggested that they were going to go out and do this. Even after the recommendation of a presidentially appointed commission to look at these kinds of accidents, appointed by this President, they've chosen to do nothing. And it's important; it's important to these workers, it's important to the Congress.

John Barrow and I have put together legislation that works for the industry. We've consulted with the industry. We've sat down with the industry. We've sat down with OSHA. And we ought to oppose this motion to recommit in the name of the workers, in the name of their families, in the name of our Nation, we owe it to protect these workers.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALBERG. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 187, noes 225, not voting 19, as follows:

[Roll No. 232]

AYES—187

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Bonner
Bono Mack
Boozman
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Kagen
Keller
King (IA)
King (NY)
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOES—225

Abercrombie
Ackerman
Allen
Altmire
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Kingston
Klein (FL)
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NOT VOTING—19

Andrews
Barton (TX)
Blunt
Boehner
Boustany
Cole (OK)
Davis, Tom
Doggett
Forbes
Goodlatte
Hill
Issa
Payne
Pence
Rush
Shuster
Slaughter
Tierney
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1848

Mr. KAGEN changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. SLAUGHTER. Madam Speaker, on roll-call No. 232, I was unavoidably detained. Had I been present, I would have voted "no."

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 247, noes 165, not voting 19, as follows:

[Roll No. 233]

AYES—247

Abercrombie
Ackerman
Allen
Altmire
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Kingston
Klein (FL)
Kucinich
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Perlmutter
Peterson (MN)
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Regula
Reyes
Richardson
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz

Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth
Young (AK)

NOES—165

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Bonner
Bono Mack
Boozman
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Coble
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Deal (GA)
Dent
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Inglis (SC)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
Lamborn
Latham
Latta
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Walberg
Walden (OR)
Wamp
Weldon (FL)
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (FL)

NOT VOTING—19

Andrews
Barton (TX)
Blunt
Boehner
Boustany
Boyd (FL)
Cole (OK)
Davis, Tom
Dicks
Doggett
Forbes
Goodlatte
Hill
Hunter
Issa
Payne
Pence
Rush
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1856

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5715. An act to ensure continued availability of access to the Federal student loan program for students and families.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5522, COMBUSTIBLE DUST EXPLOSION AND FIRE PREVENTION ACT OF 2008

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 5522, the Clerk be authorized to correct the table of contents, section numbers, punctuation, citations, and cross-references and to make such other technical and conforming changes as may be appropriate to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. RYAN of Wisconsin. Madam Speaker, I hereby give notice of my intention to offer a motion to instruct conferees on H.R. 2419, pursuant to clause 7(c) of rule XXI.

The form of the motion is as follows:

Mr. Ryan of Wisconsin moves that the managers on the part of the House on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 be instructed, within the scope of the conference, to use the most recent baseline estimates supplied by the Congressional Budget Office when evaluating the costs of the provisions of the report.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1201

Mr. SOUDER. Madam Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 1201.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2448

Mr. SALI. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2448.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2419, FOOD AND ENERGY SECURITY ACT OF 2007

Mr. KIND. Madam Speaker, under rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 2419.

The form of the motion is as follows:

Mr. Kind moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2419 (an Act to provide for the continuation of agricultural programs through fiscal year 2012) be instructed to—

(1) insist on the amendment contained in section 2401(d) of the House bill (relating to funding for the environmental quality incentive program);

(2) insist on the amendments contained in section 2104 of the House bill (relating to the grassland reserve program) and reject the amendment contained in section 2401(2) of the Senate amendment (relating to funding for the grassland reserve program);

(3) insist on the amendments contained in section 2102 of the House bill (relating to the wetland reserve program); and

(4) insist on the amendments contained in section 2608 of the Senate bill (relating to crop insurance ineligibility relating to crop production on native sod).

□ 1900

NEED-BASED EDUCATIONAL AID ACT OF 2008

Mr. DELAHUNT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1777) to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1777

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 ''Need-Based Educational Aid Act of 2008''.

SEC. 2. AMENDMENT.

Subsection (d) of section 568 of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is repealed.

The SPEAKER pro tempore (Mr. LOEBSACK). Pursuant to the rule, the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. DELAHUNT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

First, I want to thank the Chair of the Judiciary Committee for allowing this important piece of legislation to move forward. I particularly want to thank the ranking member of the Judiciary Committee, Mr. LAMAR SMITH, for the opportunity to work with him on this significant legislation and for