

Section 215 – Occupational Safety and Health

Section 215 of the Congressional Accountability Act (CAA) applies certain rights and protections of the Occupational Safety and Health Act (OSH Act) to Legislative Branch employing agencies and employees covered by the CAA. Under the provisions of the OSH Act, as made applicable by the CAA, employing offices and covered employees must comply with Occupational Health and Safety Administration (OSHA) standards to ensure that workplaces are free of safety and health hazards. The Office of Compliance applies the most relevant substantive Executive Branch OSHA regulations.

1. Coverage

The term “employer” as used in the CAA means an employing office. An employing office is defined as the entity responsible for correcting a violation of Section 215 of the CAA, regardless of whether or not that entity has an actual employment relationship with the covered employee in the employing office where the violation occurred.

The following offices are covered if they are responsible for correcting a substantiated OSHA violation: all offices of the House and Senate, including all committees and state district offices; joint committees of Congress; the Capitol Guide Service; the Capitol Police; the Congressional Budget Office; the Government Accountability Office; the Library of Congress; the Office of the Architect of the Capitol; the Office of the Attending Physician; and the Office of Compliance.

The term “covered employee” includes any employee of the following offices or one of its sub-units: the House of Representatives and the Senate, including all committees and state district offices; joint committees of Congress; the Capitol Guide Service; the Capitol Police; the Congressional Budget Office; the Government Accountability Office; the Library of Congress; the Office of the Architect of the Capitol; the Office of the Attending Physician; and the Office of Compliance.

The covered employees and employing offices subject generally to the CAA are described in the “Covered Employees” section of the *CAA Handbook* and the Office of Compliance web site (www.compliance.gov).

2. Violation of OSHA Standards Prohibited

The CAA states that each employing office and covered employee shall comply with section 5 of the OSH Act, which states in part that each employer shall furnish to each of his or her employees a place of employment that is free from hazards. Each employing office must comply with the standards established by OSHA. Employees likewise must comply with standards, rules, regulations, and orders issued pursuant to the OSH Act.

3. Recognized Safety and Health Hazards

The following is a list of possible OSHA violations, ranging from the serious to the less serious, that would constitute recognized safety and health hazards. Note that these are only examples and is by no means an exhaustive list:

- ◆ Improper abatement of asbestos containing materials
- ◆ Unprotected exposure to chemical or biological hazardous materials
- ◆ Insufficient or no fall protection during construction or maintenance
- ◆ Inadequate emergency action plan (for example, for evacuation of employees)

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- ◆ Lack of back-up emergency lighting
- ◆ Overuse of electrical extension cords and power strips
- ◆ Unsafe space heaters

4. Filing Requests for Inspection

Any Legislative Branch employing office or employee who is covered by the CAA may file a Request for Inspection with the Office of Compliance. An employee representative, such as a recognized union, may file on behalf of a group of employees. The form that is to be used can be obtained from the Office of Compliance. The Office of Compliance will provide reasonable technical assistance in completing the form.

Once the Request for Inspection has been filed, at the request of the requestor and/or the employing office that is responsible for correcting the alleged violation, the Office of Compliance may hold an opening conference to outline the inspection process and to answer any questions the parties might have. The Office of Compliance will then proceed with the inspection, which may include – among other things – a physical survey of the location of the alleged violation, the taking and testing of samples, the obtaining of relevant documentation, and/or interviews with affected employees and management representatives.

5. Correction of OSHA Violations

In the case of an OSHA violation that is substantiated by an investigation, the Office of Compliance may take a series of steps to enforce correction of the violation. The first is for the General Counsel of the Office of Compliance to issue a notification of a violation or a citation to the employing office that is violating the CAA (or other entity responsible for correcting the violation). These serve to place the employing office on notice that the violation must be corrected within a stated period of time.

If the employing office still has not corrected the violation after the deadline for doing so has passed, then after filing of a citation the General Counsel may proceed to file a complaint with the Office of Compliance against the employing office in order to request a hearing with an independent hearing officer, who is appointed by the Executive Director of the Office of Compliance. At the hearing, the Hearing Officer will hear evidence submitted from both the General Counsel and the employing office before issuing a decision. If the decision is in the favor of the General Counsel, the Hearing Officer may order the employing office to correct the violation. If, however, the General Counsel is aggrieved by the Hearing Officer's decision, the decision may be appealed to the Board of Directors of the Office of Compliance and, if necessary, to the U.S. Court of Appeals for the Federal Circuit.