

## ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 17 minutes a.m.), the House adjourned until today, Friday, May 28, 1998, at 9 a.m.

## OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

"I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 105th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable RICHARD A. BRADY, First Pennsylvania.

## NOTICE OF DECISION TO TERMINATE RULEMAKING

U.S. CONGRESS,  
OFFICE OF COMPLIANCE,  
Washington, DC, May 12, 1998.

Hon. NEWT GINGRICH,  
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303 of the Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §1383, I am issuing the enclosed Notice of Decision to Terminate Rulemaking. This Notice announces the termination of a proceeding commenced by a Notice of Proposed Rulemaking and a Supplementary Notice of Proposed Rulemaking published in the Congressional Record on October 1, 1997 and January 28, 1998, respectively.

I would appreciate it if you would have this enclosed Notice of Decision to Terminate Rulemaking published in the Congressional Record.

Sincerely yours,

RICKY SILBERMAN  
Executive Director

Enclosure.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Amendments to Procedural Rules

NOTICE OF DECISION TO TERMINATE  
RULEMAKING

*Summary:* On October 1, 1997, the Executive Director of the Office of Compliance published a notice in the Congressional Record proposing, among other things, to extend the Procedural Rules of the Office to cover the

General Accounting Office and the Library of Congress and their employees with respect to alleged violations of sections 204-207 of the Congressional Accountability Act of 1995 ("CAA"). These sections apply the rights and protections of the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, and the Uniformed Services Employment and Reemployment Act, and prohibit retaliation and reprisal for exercising rights under the CAA. The notice invited public comment, and, on January 28, 1998, a supplementary notice was published inviting further comment. Having considered the comments received, the Executive Director has decided to terminate the rulemaking and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

*Availability of comments for public review:* Copies of comments received by the Office with respect to the proposed amendments are available for public review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

*For further information contact:* Executive Director, Officer of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999; telephone (202) 724-9250 (voice), (202) 426-1912 (TTY). This Notice will be made available in large print or braille or on computer disk upon request to the Office of Compliance.

*Supplementary Information:* The Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §1301 *et seq.*, applies the rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204-206 of the CAA explicitly cover the General Accounting Office ("GAO") and the Library of Congress ("Library"). These sections apply the rights and protections of the Employee Polygraph Protection Act of 1988 ("EPPA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").

On October 1, 1997, the Executive Director of the Office of Compliance ("Office") published a Notice of Proposed Rulemaking ("NPRM") proposing to extend the Procedural Rules of the Office to cover GAO and the Library and their employees for purposes of proceedings involving alleged violations of sections 204-206, as well as proceeding involving alleged violations of section 207, which prohibits intimidation and retaliation for exercising rights under violations of section 207, which prohibits intimidation and retaliation for exercising rights under the CAA. 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997). The Library submitted comments in opposition to adoption of the proposed amendments and raising questions of statutory construction. On January 28, 1998, the Executive Director published a Supplementary Notice of Proposed Rulemaking ("Supplementary NPRM") requesting further comment on the issues raised by the Library. 144 Cong. Rec. S86 (daily ed. Jan. 28, 1998). Comments in response to the Supplementary NPRM were submitted by GAO, the Library, a union of Library employees, and a committee of the House of Representatives.

The comments expressed divergent views as to the meaning of the relevant statutory provisions. The CAA extends rights, protections, and procedures only to certain defined "employing offices" and "covered employees." The definitions of these terms in section 101 of the CAA, which apply throughout the CAA generally, omit GAO and the Library and their employees from coverage,

but sections 204-206 of the CAA expressly include GAO and the Library and their employees within the definitions of "employing office" and "covered employee" for purposes of those sections. Two commenters argued that the provisions of sections 401-408, which establish the administrative and judicial procedures for remedying violations of sections 204-206, refer back to the definitions in section 101 "without linking to the very limited coverage" of the instrumentalities in sections 204-206, and therefore do not cover GAO and the Library and their employees. However, two other commenters argued to the contrary. One stated that, because employees of the instrumentalities were given the protections of sections 204-206, "the concomitant procedural rights" of sections 401-408 were also conferred on them; and the other commenter argued that construing the CAA to grant rights but not remedies would defeat the stated legislative purpose, "since a right without a remedy is often no right at all." The four commenters also expressed divergent views about whether GAO and the Library and their employees, who were not expressly referenced by section 207, are nevertheless covered by the prohibition in that section against retaliation and reprisal for exercising applicable CAA rights.

Having considered that the comments received express such opposing views of the statute, the Executive Director has decided to terminate the rulemaking without adopting the proposed amendments and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

In light of the statutory questions raised, it remains uncertain whether employees of GAO and the Library have the statutory right to use the administrative and judicial procedures under the CAA, and whether GAO and the Library may be charged as respondent or defendant under those procedures, where violations of sections 204-207 of the CAA are alleged. The Office will continue to accept any request for counseling or mediation and any complaint filed by a GAO or Library employee and/or alleging a violation by GAO or the Library. Any objection to jurisdiction may be made to the hearing officer or the Board under sections 405-406 or to the court during proceedings under sections 407-408 of the CAA. Furthermore, the Office will counsel any employee who initiates such proceedings that a question has been raised as to the Office's and the courts' jurisdiction under the CAA and that the employee may wish to preserve rights under any other available procedural avenues.

The Executive Director's decision announced here does not affect the coverage of GAO and the Library and their employees with respect to proceedings under section 215 of the CAA (which applies the rights and protections of the OSHA Act) or *ex parte* communications. On February 12, 1998, the Executive Director, with the approval of the Board, published a Notice of Adoption of Amendments amending the Procedural Rules to include such coverage. 144 Cong. Rec. S720 (daily ed. Feb. 12, 1998).

Signed at Washington, DC., on this 12th day of May, 1998.

RICKY SILBERMAN,  
Executive Director,  
Office of Compliance.

EXECUTIVE COMMUNICATIONS,  
ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows: