Office of the Secretary of Labor

§ 2.12 Audiovisual coverage permitted.

The following are the types of hearings where the Department encourages audiovisual coverage:

(a) All hearings involving notice and comment and on-the-record rule making proceedings. The Administrative Procedure Act provides for notice of proposed rule making with provision for participation by interested parties through submission of written data, views, or arguments, with or without opportunity for oral presentation (5 U.S.C. 553). (In many cases the Department follows the above procedure in matters exempted from these requirements of 5 U.S.C. 553.) On-the-record rule making proceedings under 5 U.S.C. 556 and 557 are also hearings where audiovisual coverage of hearings is encouraged. Examples of hearings encompassed by this paragraph are:

(1) Hearings to establish or amend safety or health standards under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651.

(2) Hearings to determine the adequacy of State laws under the Occupational Safety and Health Act of 1970.
(b) Hearings to collect or review wage data upon which to base minimum wage rates determined under various laws, such as the Davis-Bacon Act (40 U.S.C. 276a) and related statutes and the Service Contract Act of 1965 (41 U.S.C. 353, as amended by Pub. L. 92–473 approved October 9, 1972).

(c) Hearings under section 4(c) of the Service Contract Act of 1965 (41 U.S.C. 353, subsection (c) added by Pub. L. 92–473 approved October 9, 1972) to determine if negotiated rates are substantially at variance with those which prevail in the locality for services of a character similar.

(d) Hearings before the Administrative Review Board (parts 1, 3, 5, and 7 of this chapter).

(e) Hearings held at the request of a Federal agency to resolve disputes under the Davis-Bacon and related Acts, involving prevailing wage rates or proper classification which involve significant sums of money, large groups of employees or novel or unusual situations.

(f) Hearings of special industry committees held pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. 201 et seq.) for the purpose of recommending minimum wage rates to be paid in Puerto Rico, the Virgin Islands, and American Samoa.

(g) Hearings pursuant to section 13(a) of the Welfare and Pension Plans Disclosure Act (29 U.S.C. 308a) to determine whether a bond in excess of $500,000 may be prescribed.

(h) Hearings where the Department is requesting information needed for its administrative use in determining what our position should be (e.g., our hearings on the 4-day, 40-hour workweek).

§ 2.13 Audiovisual coverage prohibited.

The Department shall not permit audiovisual coverage of the following types of hearings if any party objects:

(a) Hearings to determine whether applications for individual variances should be issued under the Occupational Safety and Health Act of 1970.


(c) Adversary hearings under the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) and related Acts, which determine an employee's right to compensation.

(d) Hearings which determine an employee's right to compensation under the Federal Employees' Compensation Act (5 U.S.C. 8101 et seq.).

§ 2.14 Proceedings in which the Department balances conflicting values.

In proceedings not covered by §§2.12 and 2.13, the Department should determine whether the public's right to know outbalances the individual's right to privacy. When audiovisual coverage is restricted or excluded, the record shall state fully the reasons for such restriction or exclusion. For example, there would be included in this category hearings before the Board of Contract Appeals involving appeals from contracting officer decisions involving claims for extra costs for extra work, extra costs for delay in completion caused by the Government or for changes in the work, conformity hearings arising under State unemployment insurance laws, etc.

§ 2.15 Protection of witnesses.

A witness has the right, prior to or during his testimony, to exclude audiovisual coverage of his testimony in any hearing being covered audiovisually.

§ 2.16 Conduct of hearings.

The presiding officer at each hearing which is audiovisually covered is authorized to take any steps he deems