

DATES: Written comments or requests for a public hearing must be received on or before July 20, 1995.

ADDRESSES: The permit is available for review by interested persons in the following offices by appointment:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289);

Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298, (508/281-9150); and

Director, Southeast Region, NMFS, 9721 Executive Center Drive, North St. Petersburg, FL 33702-2432 (813/893-3141).

FOR FURTHER INFORMATION CONTACT: Kellie Foster (301/713-1401).

SUPPLEMENTARY INFORMATION: On March 16, 1995, notice was published in the **Federal Register** (60 FR 14271) that a permit had been requested by the above-named individual. The requested permit has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The permit authorized the holder to take by harassment a maximum of 10,000 Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of locating a maximum of 500 dolphins suitable for take by capture for examination, sampling, marking, tagging and release. Project duration is 5 years. The objectives of this study are to develop health assessment indices of dolphin populations and individuals in the southeast, and ultimately to assess the impact of human activities on specific populations.

Dated: June 13, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95-14950 Filed 6-19-95; 8:45 am]

BILLING CODE 3510-22-F

National Telecommunications and Information Administration

[Docket Number 950613151-5151-01]

RIN 0660-XX02

Public Telecommunications Facilities Program (PTFP), National Endowment for Children's Educational Television (NECET), Telecommunications and Information Infrastructure Assistance Program (TIIAP)

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Telecommunications and Information Administration (NTIA) administers a number of grant programs providing financial assistance to eligible entities. The Public Telecommunications Facilities Program (PTFP) and the Telecommunications and Information Infrastructure Assistance Program (TIIAP) each fund facilities (for public broadcasting and connection to computer networks, respectively), while the National Endowment for Children's Educational Television (NECET) funds the creation of new children's programming. To ensure compliance with the First Amendment, NTIA has had a long-standing policy of not allowing PTFP equipment acquired with grant funds to be used for any purpose the essential thrust of which is sectarian. This policy was also recently adopted for two newer assistance programs, NECET and the TIIAP. NTIA has applied this policy in a "bright-line" fashion: It does not permit a PTFP grantee to broadcast any sectarian program using PTFP-funded equipment, a NECET grantee to include any sectarian material in a children's program funded by NECET, or a TIIAP grantee to transmit any sectarian information by means of facilities funded by TIIAP. NTIA has received a number of inquiries regarding the continued application of its current policy. Accordingly, the purpose of this proceeding is to allow for a full range of public comment on whether NTIA's current policy, as applied to all three grant programs, should be continued or whether alternative approaches are also consistent with the First Amendment and sound public policy. NTIA will consider these comments in determining whether to change its policy, its application procedures, and/or its enforcement of each of the three grant programs prospectively.

DATES: Comments should be submitted on or before August 21, 1995.

ADDRESSES: Persons interested in commenting must send an original plus two copies of any comments to:

Department of Commerce, Office of the Chief Counsel, National Telecommunications and Information Administration, 14th and Constitution Avenue, NW., Room 4713, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Jana Gagner, (202) 482-1816.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 1979, the PTFP issued a final rule and policy in a Report and Order on sectarian activities.¹ The Report and Order contains a full discussion of NTIA's rationale for originally establishing its policy and related procedures, including a discussion of applicable Constitutional law. PTFP's regulation regarding sectarian activities, in effect continuously since 1979, provides that: "During the period in which the grantee possesses or uses the Federally funded facilities (whether or not this period extends beyond the Federal interest period), the grantee may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian."²

"Sectarian" has been defined as having "the purpose or function of advancing or propagating a religious belief."³

The Report and Order further provided that the rule regarding sectarian activities was not meant to affect "presentation in an educational or cultural context of music or art with a religious theme, nor of programs about religion. * * * [nor] preclude distribution of instructional programming of a secular nature to church-related educational institutions."⁴ The Report and Order specifically explained how NTIA would determine the eligibility of applicants with religious affiliations.⁵ NTIA made clear its intent not to become a "super-programmer" by inquiring into the content of particular programs on a routine basis.⁶

NTIA's two newer grant programs, the TIIAP and the NECET, currently follow the same policy with regard to Federal support of sectarian activities. The following provision, which references

¹ Public Telecommunications Facilities Program; Report and Order, 44 FR 30,898 (1979) [hereinafter Report and Order].

² 15 C.F.R. 2301.22(d) (1995).

³ 15 C.F.R. 2301.1 (1995).

⁴ Report and Order, *supra*, note 1 at 30,902 ¶ 26.

⁵ *Id.* at 30,900-904.

⁶ *Id.* at 30,901-902. In fact, NTIA requires PTFP grantees to certify that the grant funds are not being used for sectarian purposes.

the current PTFP rule, was included in the Notice of Availability of Funds for each program:

The Department of Commerce has a long standing policy of not funding projects for purposes the essential thrust of which is sectarian. Consistent with this policy, TIIAP [and NECET] will not fund projects the essential thrust of which is sectarian. Sectarian organizations, however, are eligible applicants and may request funds for non-sectarian purposes.⁷

NTIA's long-standing regulation in 15 CFR 2301.22(d) was recently challenged for the first time in the case of *Fordham University v. Brown*. There a PTFP applicant argued that NTIA's policy on sectarian broadcasting violated its right to free exercise of religion and freedom of speech under the First Amendment of the Constitution. The Fordham court rejected this challenge and held that NTIA's policy was not violative of the First Amendment. In *dicta*, however, the court noted that it was not addressing whether there were alternative interpretations of this regulation which could also be implemented by NTIA consistent with the First Amendment.⁸

Requests for Modification

NTIA has received a number of requests to consider modifying its policy. Various public broadcast stations have indicated concern because they wish to include in their schedules some individual programs that could be considered "sectarian" under PTFP's regulation as currently interpreted and applied. Accordingly, while our current approach has been ruled constitutionally permissible, we seek to determine whether we can and should modify our policy prospectively to permit some limited amount of sectarian programming or information via Federally-funded projects.

In considering whether the essential thrust of a project is sectarian, NTIA is considering whether to look to the overall purpose of the entire project rather than looking to individual components of the project. Under this approach, if the primary purpose of the

⁷See 60 FR 8,156 (February 10, 1995) and 60 FR 15,636 (March 24, 1995), respectively.

⁸*Fordham University v. Brown*, No. 93-2120 at 25 (CCR)(D.D.C. June 29, 1994) (appeal docketed, No. 94-5229, August 22, 1994). PTFP refused a grant to Fordham University's public radio station because it broadcast a Catholic mass every Sunday. In addition, the Supreme Court has before it the case of *Rosenberger v. Rector and Visitors of the University of Virginia*, No. 94-329 (oral arg. held Mar. 1, 1995). The *Rosenberger* case raises the constitutionality of a state-supported university's refusal to make a student activities fund grant to a Christian journal. A decision in the *Rosenberger* case is expected by the end of this Supreme Court term.

overall project is non-sectarian, a grant applicant would no longer be considered ineligible, nor would a grant recipient be found to be in violation of the grant conditions, due to use of Federal funds for a project with only a limited amount of sectarian programming or information.

Differences among the programs warrant close examination in adopting a new policy. For example, PTFP grantees, as broadcasters, have editorial control over the content of their transmissions, and NECET grantees control the subject matter of the children's programming that is funded. TIIAP grantees may have no or little control over transmissions sent by others via computer networks.⁹ On the other hand, NECET funds specific programs and/or series, and TIIAP may also fund the creation of content for transmission over interactive networks, rather than facilities only, as with PTFP. While the current "bright-line" approach is applied to all three programs alike, we will examine the impact of the programs' differences on proposals to modify our current approach and allow a limited amount of sectarian programming or information.

We also recognize that the proposed modification to our current approach, or any other alternative approach, must pass muster under the First Amendment of the U.S. Constitution.¹⁰ Therefore, NTIA is providing an opportunity for interested parties to comment on the following issues: (1) Whether allowing a limited amount of sectarian programming to be broadcast using PTFP-funded equipment, a limited amount of sectarian material to be included in a children's program produced using NECET funds, or a limited amount of sectarian information to be transmitted electronically over a network using TIIAP-funded facilities would be permissible under the First Amendment, if so whether there are sound policy reasons for such an approach, and what implementation issues are raised; (2) whether any other alternatives to NTIA's current approach have a sound policy basis and could be adopted consistent with the First Amendment and current jurisprudence, including how such a policy could, as practical and constitutional matters, be implemented and enforced; (3) whether the same policy can and should be applied to all three NTIA grant programs, and if the same policy cannot

⁹Because TIIAP funds facilities used for transmission of information via interactive networks, some transmitted information may be under the control of the grantee and some may be under the control of end users.

¹⁰U.S. Const. amend. I.

be applied to all three NTIA grant programs, what policy should pertain to each grant program; and (4) whether the current definition of "sectarian" continues to be supportable if NTIA's current policy is modified.

This notice has been determined to be not significant for purposes of Exec. Order No. 12,866.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 95-15039 Filed 6-19-95; 8:45 am]

BILLING CODE 3510-60-P

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board; Notice of Open Meeting

AGENCY: Armed Forces Epidemiological Board, DOD.

ACTION: Notice of open meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-462), announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittee on Injury Prevention Working Group, DOD.

Date of Meeting: 05 July 1995.

Time: 0930-1600.

Place: Great Lakes Naval Training Center, Illinois.

Proposed Agenda: Meeting of the Injury Prevention Working Group of the Armed Forces Epidemiological Board.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041-3258.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95-15097 Filed 6-19-95; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 12 July 1995.

Time of Meeting: 0900-1700.