

genuine and independent choice among training providers, as set forth in proposed 29 CFR 37.6(f)(2). Further, the current language of 20 CFR 667.266(b)(2) sets forth the prohibition on employing persons to carry out construction, operation, or maintenance of facilities used for religious instruction or religious worship that is found in 29 CFR 37.6(f)(1). The only change proposed to existing 20 CFR 667.266(b)(2) is to revise the cross-references to 29 CFR 37.6(f)(1) and (f)(2) to 29 CFR 37.6(f)(3) and (f)(4), respectively.

Proposed Paragraph 667.275(b)

The existing language of 20 CFR 667.275(b) also refers to the provision in existing 29 CFR 37.6(f) that prohibits the employment and training of participants in religious activities. Accordingly, the proposed rule would revise 20 CFR 667.275(b) to conform to the proposed revisions to existing 29 CFR 37.6(f). Proposed paragraph 667.275(b) would provide that WIA financial assistance provided directly to a recipient may not be expended for the employment or training of participants in religious activities, but that WIA Title I financial assistance that is provided indirectly may be used to train participants in religious activities, as long as the State or LWIA has established a mechanism for providing such assistance that gives participants a genuine and independent choice among training providers (including religious and non-religious providers) and the other conditions outlined in 29 CFR 29.37.6(f)(2) are met. Further, proposed paragraph 667.275(b) would state that WIA financial assistance may not be used in employment or training activities that involve the construction or maintenance of any facility used for religious instruction or a place of worship, but that the employment of participants to maintain a facility that is not primarily or inherently devoted to religious instruction or worship is permitted if the organization operating the facility is part of an organization that provides services to participants.

III. Regulatory Procedures

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this rule under Executive Order 12866, "Regulatory Planning and Review." OMB has determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order. However, this rule is not an economically significant regulatory action under the Order, and therefore,

no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

The proposed rule would not substantially change the existing obligation of recipients or entities operating Federally-assisted programs or activities to apply a policy of nondiscrimination and equal opportunity in employment or services. The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, this proposed rule does not include any Federal mandate that may result in increased expenditures by any State, local, and tribal governments.

Paperwork Reduction Act

The proposed rule contains no new information collection requirements. Therefore, it is not subject to the Paperwork Reduction Act.

Executive Order 13132

This proposed rule has been reviewed in accordance with Executive Order 13132 regarding Federalism. The proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the requirements of section 6 of Executive Order 13132 do not apply to this rule.

20 CFR Part 667

Employment, Grant programs—Labor, Reporting and recordkeeping requirements

29 CFR Part 37

Administrative practice and procedure, Discrimination, Civil rights, Equal education opportunity, Equal employment opportunity, Grant programs—Labor, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, part 667, subpart B, title 20 of the Code of Federal Regulations, and part 37, subpart A, title 29 of the Code of Federal Regulations, are amended to read as set forth below.

Signed at Washington, DC this 22nd day of September, 2003.

Elaine L. Chao,
Secretary of Labor.

Title 20—Employees' Benefits

Chapter V—Employment and Training Administration, Department of Labor

PART 667—ADMINISTRATIVE PROVISIONS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT (WIA)

1. The authority citation for part 667 is revised to read as follows:

Authority: Section 506(c), Pub. L. 105–220, 112 Stat. 1246 (20 U.S.C. 9276(c)).

2. In § 667.266, the section heading and paragraph (b) are revised to read as follows:

§ 667.266 What are the limitations related to religious activities?

* * * * *

(b) Under these limitations:

(1) WIA title I financial assistance provided directly from the State or LWIA to a religious organization may not be expended for religious employment or training. This limitation is more fully described at 29 CFR 37.6(f)(1). As set forth in 29 CFR 37.6(f)(2), financial assistance provided under title I of WIA may be used to train participants in religious activities where the State or LWIA has established a mechanism for providing such assistance that gives participants a genuine and independent choice among training providers (including religious and non-religious providers), that mechanism permits participants to direct the financial assistance to the provider of their choice, and the provider receiving the assistance otherwise satisfies the requirements of the program.

(2) Under 29 CFR 37.6(f)(3), participants must not be employed under title I of WIA to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for religious instruction or as a place for religious worship. However, as discussed in 29 CFR 37.6(f)(4), WIA financial assistance may be used for the maintenance of a facility to the extent that it is not primarily or inherently devoted to religious instruction or religious worship and provided that the organization operating the facility is part of a program or activity providing services to WIA participants. (WIA sec. 188(a)(3).)

* * * * *

3. In § 667.275, the section heading and paragraph (b) are revised to read as follows: