explained that North Carolina program's proposed revised compliance staffing benchmarks apply specifically to personnel for the enforcement of occupational safety and health standards and that although an individual with an educational background in occupational health nursing would be eligible to apply for consideration for these positions, it would be inappropriate to reserve staffing positions for individuals with a particular occupational health degree.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings. In light of all the facts presented on the record, including the absence of any objections from interested parties, the Assistant Secretary has determined that the revised compliance staffing levels proposed for North Carolina meet the requirements of the 1978 Court Order in *AFL–CIO* v. *Marshall* in providing the number of safety and health compliance officers for a ''fully effective'' enforcement program. Therefore, the revised compliance staffing levels of 64 safety and 50 health compliance officers for North Carolina are approved.

Effect of Decision

The approval of the revised staffing levels for North Carolina, set forth elsewhere in this notice, establishes the requirement for a sufficient number of adequately trained and qualified compliance personnel as set forth in Section 18(c) of the Act and 29 CFR 1902.37(b)(1). These benchmarks are established pursuant to the 1978 Court Order in *AFL–CIO* v. *Marshall* and define the compliance staffing levels necessary for a ''fully effective'' program in North Carolina. The allocation of sufficient staffing to meet the benchmarks is one of the conditions necessary for States to receive an 18(e) determination (final State plan approval) with its resultant relinquishment of concurrent Federal enforcement jurisdiction.

Explanation of Changes to 29 CFR Part 1952

29 CFR 1952 contains, for each State having an approved occupational safety and health plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. This notice makes several changes to Subpart I to reflect the approval of North Carolina's revised compliance staffing benchmarks, as well as to reflect minor editorial modifications to the structure of the Subpart.

Section 1952.393, Compliance staffing benchmarks, has been revised to reflect the approval of the revised benchmarks for North Carolina. In addition, the addresses of locations where the North Carolina plan may be inspected have been updated and are found at § 1952.156.

Regulatory Flexibility Act

OSHA certifies, pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, et seq.), that this rulemaking will not have significant economic impact on a substantial number of small entities. Approval of the revised compliance staffing benchmarks for North Carolina will not place small employers in the State under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (43 FR 35736))

Signed at Washington, DC, this 10th day of May 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

PART 1952—[AMENDED]

Accordingly, Subpart I of 29 CFR Part 1952 is amended as follows:

Subpart I—North Carolina

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (43 FR 35736).

2. Section 1952.153 is revised to read as follows:

§ 1952.153 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall*, compliance staffing levels (''benchmarks'') necessary for a ''fully effective'' enforcement program were required for each State operating an approved State plan. In September 1984, North Carolina, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised benchmarks of 50 safety and 27 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986. In June 1990, North Carolina reconsidered the information utilized in the initial revision of its 1980 benchmarks and determined that changes in local conditions and improved inspection data warranted further revision of its benchmarks to 64 safety inspectors and 50 industrial hygienists. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on June 4, 1996.

3. Section 1952.156 is revised to read as follows:

§ 1952.156 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3700, Washington, DC 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30367; and

Office of the Commissioner, North Carolina Department of Labor, 319 Chapanoke Road, Raleigh, North Carolina 27603.

[FR Doc. 96–13913 Filed 6–3–96; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–96–023]

RIN 2115–AA97

Safety Zone: Empire State Regatta, Albany, New York

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Empire State Regatta on June 7, 1996, from 12:01 p.m. until 3 p.m., and on June 8, 1996, from 6 a.m. until 6 p.m. This safety zone will temporarily close the Hudson River at Albany, New York, from the Patroon Island Bridge to the Dunn Memorial Bridge. This safety zone is necessary to protect the maritime public from the hazards associated with crew shells racing in lanes and having limited maneuverability while underway.

EFFECTIVE DATE: This regulation is effective from 12:01 p.m. to 3 p.m. on

Friday, June 7, 1996, and from 6 a.m. to 6 p.m. on Saturday, June 8, 1996, unless extended or terminated sooner by the Captain of the Port New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R. Trabocchi, Chief, Coordination and Analysis Branch, U.S. Coast Guard Activities New York (212) 668–7906.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NRPM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after Federal Register publication. Due to the date complete information regarding this event was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close this waterway and protect the maritime public from the hazards of crew shells with limited maneuverability racing in confined waters.

Background and Purpose

The Coast Guard received a request from the Albany Rowing Center to close a portion of the Hudson River for the Empire State Regatta. This safety zone closes a portion of the Hudson River, shore to shore, at Albany, New York, between the Patroon Island Bridge and the Dunn Memorial Bridge. The start docks and start platform will be installed on Friday, June 7, 1996, by means of a cable crossing the width of the river. After 3 p.m., the cable will be sunk and the docks clustered on the western shoreline of the Hudson River at Albany, New York. Crew shells will race in designated lanes within the race course on Saturday, June 8, 1996. Commercial and recreational traffic will be escorted through the race course by law enforcement vessels. Vessels desiring escort can contact the on-scene U.S. Coast Guard Patrol Commander on channel 16 VHF–FM. The times that vessels can be escorted through the race course are tentative because actual race times are largely dependent on winds and currents. The tentative times for escort are 10:10 a.m., 12:30 p.m., and 2:10 p.m.; escort periods are expected to be no longer than 15 minutes in duration.The safety zone closes all waters south of the Patroon Island Bridge at 42°39′50″ N latitude; 073°43′45″ W longitude (NAD 1983) and north of the Dunn Memorial Bridge at 42°38′43″ N latitude; 073°44′51″ W longitude (NAD 1983), Albany, New York. This safety zone precludes all vessels not participating in the event from transiting this portion of the Hudson River and is needed to protect mariners from the hazards of crew shells with limited maneuverability racing in confined waters. Participating vessels include race participants and race committee craft. All other vessels, swimmers, and personal watercraft of any nature are precluded from entering or moving within the safety zone without permission of the Captain of the Port New York.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under regulatory policies and procedures of the Department of transportation (DOT) (44 FR 11040; February 26, 1979) The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes the Hudson River, shore to shore, south of the Patroon Island Bridge and north of the Dunn Memorial Bridge, Albany, New York, from 12:01 p.m. to 3 p.m. on Friday, June 7, 1996, and from 6 a.m. to 6 p.m. on Saturday, June 8, 1996, unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation is not significant for several reasons: this is an annual event with local support and has been held for the past several years without incident or complaint, the closure of the river has been reduced from three days to two days this year, vessel traffic will have greater opportunities to transit during the effective period of this regulation due to modifications to the race course, and the notifications that will be made to the maritime community via local notices to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) government jurisdictions with populations less than 50,000.

For the reasons given in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.e. (34)(g) of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.046–6, and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01–023, is added to read as follows:

§ 165.T01–023 Safety Zone: Empire State Regatta, Hudson River, Albany, New York.

(a) *Location*. The waters of Hudson River, Albany, New York, shore to shore, south of the Patroon Island Bridge at 42°39′50″ N latitude; 073°43′45″ W longitude, (NAD 1983) and north of the Dunn Memorial Bridge at 42°38′43″ N latitude; 073°44′51″ W longitude (NAD 1993).

(b) *Effective period*. This section is effective from 12:01 p.m. until 3 p.m. on June 7, 1996, and from 6 a.m. to 6 p.m. on June 8, 1996, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) Vessels not participating in this event, swimmers, and personal watercraft of any nature are precluded from entering or moving within the safety zone without permission from the Captain of the Port New York.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 9, 1996.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 96–13859 Filed 6–3–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AI01

Loan Guaranty: Miscellaneous

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) regulations governing the VA home loan program by deleting superseded provisions, amending provisions to reflect statutory changes, deleting provisions that have no legal effect, and updating a position title. This document also amends the regulations by incorporating a precedent opinion of the VA General Counsel stating that the law governing the housing loan and specially adapted housing programs does not preclude VA from approving a loan or grant when the property will be held in a Family Living Trust, provided the veteran has at least an equitable life estate in the property, the lien for any VA financing attaches to the remainder, and the trust arrangement is valid under State law.

EFFECTIVE DATE: June 4, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: Section 36.4216 is deleted since it has been superseded by a new 38 CFR Part 44 which sets forth the current requirements for governmentwide debarment and suspension of program participants, including manufactured home lenders and loan holders from the VA Loan Guaranty Program.

A recent legal opinion of the VA General Counsel, VAOPGCPREC 26–95, published in summary form in the Federal Register on March 12, 1996, 61 FR 10063, holds that the law governing the housing loan and specially adapted housing programs does not preclude VA from approving a loan or grant when the property will be held in a Family Living Trust, provided the veteran has at least an equitable life estate in the property, the lien for any VA financing attaches to the remainder, and the trust arrangement is valid under State law. Previous regulations specifying the title interest a veteran must obtain in the subject property in order to qualify for assistance under these programs did not address property held in trust for estate-planning reasons. Accordingly, sections 36.4253(a), 36.4350(a), 36.4402(a), and 36.4515(a) are revised to reflect the holding in this precedent opinion.

The Servicemen's Readjustment Act of 1944 originally permitted VA to pay a guaranty claim when the holder reported the loan as being in default. The Deficit Reduction Act of 1984, P.L. 98–369, § 2512, amended what is now codified as 38 U.S.C. § 3732(a) to require that a liquidation sale must be held before a claim may be paid. Sections 36.4316 and 36.4318 are amended to reflect these statutory changes.

Section 36.4346(g)(2) is revised to correct citation references.

Section 36.4402(a) is revised to provide that a veteran is eligible for assistance under section 2101(a) of Chapter 21 if he or she has or will acquire an interest in a suitable housing unit which is at least a beneficial interest in a revocable Family Living Trust. This change incorporates the holding of VAOPGCPREC 26–95, as discussed above.

Section 36.4404(a) is revised to note that the maximum statutory amount of a grant to obtain specially adapted housing is $38,000. Section 36.4404(b) is revised to update the maximum statutory amount of a grant for a residence already adapted with special features from $6,000 to $6,500.

The authority cited for § 36.4507(c) is corrected, from 38 U.S.C. § 3710(c) to § 3711.

Regulations referring to covenants purporting to restrict the sale or occupancy of property by race, color, religion, or national origin are removed. Previous regulations (§§ 36.4350(b)(7) and 36.4515(b)(7)) provided that the violation of such a covenant will not render title to property unacceptable to VA. Also, under previous § 36.4510(d), a borrower's recording such a covenant may have constituted an event of default on a VA direct loan.

In removing these provisions, VA stresses its continuing commitment to fair housing. VA affirmatively administers its housing programs in a manner to further the purposes and objectives of the Fair Housing Act, 42 U.S.C. §§ 3601–3631. VA will not condone any violation of fair housing law in its programs, and will take all necessary measures to deal with any violation that comes to VA's attention. VA believes, however, that present law makes these regulatory provisions unnecessary.

The provisions relating to racially-restrictive covenants were originally added to the regulations in response to the Supreme Court decision in *Shelley* v. *Kraemer,* 334 U.S. 1 (1948). Although that decision held that courts may not enforce racially-restrictive covenants, it also held such privately-created covenants were not invalid and could be effectuated by voluntary adherence.

Much has changed in the area of fair housing since 1948. The Fair Housing Act clearly and unambiguously prohibits discrimination in the sale, rental, or financing of housing on the basis of race, color, religion, sex, familial status, or national origin. VA believes it is clear that such restrictive covenants are absolutely null and void, and any attempt to create or enforce such a covenant would be unlawful. Since these covenants have absolutely no effect, VA sees no reason to provide by regulation that violations of such purported restrictions may be ignored in considering whether or not a veteran has good and marketable title. VA does not believe any knowledgeable attorney or title professional would consider the existence of such an obsolete, unlawful covenant in reviewing title.

Case law also holds that recorders of deeds may not accept for recording new racially restrictive covenants. Accordingly, VA sees no purpose in making the recording of such a covenant an event of default.