

assistance. The term “proper authorization” applies to authorization that must be given by the MCS contractor when the enrollee requires the use of non-network source of care. The primary focus of this clause is for extenuating circumstances and situations involving out of region care. With these authorizations, enrollees are not subject to the point-of-service cost sharing. Situations for remote locations are also being addressed in a separate rule on TRICARE Prime Remote for Family Members.

All comments within DoD and from other interested federal agencies have been reviewed and considered.

## XII. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This rule is a significant regulatory action under Executive Order 12866, as it would add over \$200 million for DoD in annual healthcare benefit costs. This cost estimate is based on historical TRICARE costs and an assessment of potential users times average benefit costs per person for each of the provisions addressed. Benefits of the rule include an increased level of health care, particularly pharmacy coverage for Medicare-eligible beneficiaries of the Department of Defense military health system. It has been determined to be major under the Congressional Review Act. However, this rule does not require a regulatory flexibility analysis as it would have no significant economic impact on a substantial number of small entities. This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

## List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

The interim final rule published on February 9, 2001 (66 FR 9651), and corrected on February 15, 2001 (66 FR 10367), March 26, 2001 (66 FR 16400), and March 19, 2002 (67 FR 12472) is adopted as final with the following changes:

## PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.3 is amended by revising paragraphs (b)(2)(i)(D), (b)(4)(iii), (f)(3)(vi) and the text of paragraph (f)(3)(vii) preceding the note to read as follows:

### § 199.3 Eligibility.

\* \* \* \* \*

- (b) \* \* \*
- (2) \* \* \*
- (i) \* \* \*

(D) Must not be eligible for Part A of Title XVIII of the Social Security Act (Medicare) except as provided in paragraphs (b)(3), (f)(3)(vii), (f)(3)(viii) and (f)(3)(ix) of this section; and

\* \* \* \* \*

- (4) \* \* \*

(iii) *Effective date.* The CHAMPUS eligibility established by paragraphs (b)(4)(i) and (ii) of this section is applicable to health care services provided on or after October 30, 2000.

\* \* \* \* \*

- (f) \* \* \*
- (3) \* \* \*

(vi) Attainment of entitlement to hospital insurance benefits (Part A) under Medicare except as provided in paragraphs (b)(3), (f)(3)(vii), (f)(3)(viii) and (f)(3)(ix) of this section. (This also applies to individuals living outside the United States where Medicare benefits are not available.)

(vii) Attainment of age 65, except for dependents of active duty members, beneficiaries not eligible for Part A of Medicare, beneficiaries entitled to Part A of Medicare who have enrolled in Part B of Medicare; and as provided in paragraph (b)(3) of this section. For those who do not retain CHAMPUS, CHAMPUS eligibility is lost at 12:01 a.m. on the first day of the month in which the beneficiary becomes entitled to Medicare.

\* \* \* \* \*

3. Section 199.4 is amended by revising paragraph (g)(68) to read as follows:

### § 199.4 Basic program benefits.

\* \* \* \* \*

- (g) \* \* \*

(68) *Travel.* All travel even though prescribed by a physician and even if its purpose is to obtain medical care, except as specified in paragraph (a)(6) of this section in connection with a CHAMPUS-required physical examination and as specified in § 199.17(n)(2)(vi).

\* \* \* \* \*

4. Section 199.22 is amended by revising paragraph (d)(1)(i) and adding a Note after paragraph (d)(1)(v) to read as follows:

### § 199.22 TRICARE Retiree Dental Program (TRDP).

\* \* \* \* \*

- (d) \* \* \*

- (1) \* \* \*

(i) Members of the Uniformed

Services who are entitled to retired pay, or former members of the armed forces who are Medal of Honor recipients and who are not otherwise entitled to dental benefits;

\* \* \* \* \*

- (v) \* \* \*

Note to paragraphs (d)(1)(iii), (d)(1)(iv), and (d)(1)(v): Eligible dependents of Medal of Honor recipients are described in § 199.3(b)(2)(i) (except for former spouses) and § 199.3(b)(2)(ii) (except for a child placed in legal custody of a Medal of Honor recipient under § 199.3(b)(2)(ii)(H)(4)).

\* \* \* \* \*

Dated: March 20, 2002.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 02-7862 Filed 4-2-02; 8:45 am]

**BILLING CODE 5001-08-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Part 659

**[FTA-A-2002-11440]**

**RIN 2132-AA69**

### Rail Fixed Guideway Systems; State Safety Oversight

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Direct final rule.

**SUMMARY:** The Federal Transit Administration (FTA) is revising the definition of “accident” as used in the State Safety Oversight regulation to achieve consistency with the reporting requirements of the revised Safety and Security Module of the National Transit Database (NTD), updated February 2002. The term and definition of “accident” is removed and replaced with the term and definition “major incident.”

**DATES:** This rule is effective July 2, 2002 unless a written adverse comment, or written notice of intent to submit an adverse comment, reaches the Docket Management Facility on or before June 3, 2002. If an adverse comment, or notice of intent to submit an adverse comment, is received, FTA will

withdraw this direct final rule and publish a notice of withdrawal in the **Federal Register**.

**ADDRESSES:** You may mail your comments to the United States Department of Transportation, Docket Management Facility, PL-401, 400 Seventh Street SW., Washington, DC 20590. Written comments must refer to the above docket number. All comments received will be available for inspection at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Those desiring the agency to acknowledge receipt of their comments should include a self-addressed stamped postcard with their comments. You may also access this docket on the Internet at <http://dns.dot.gov>. The fax number is (202) 493-2251.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this rule, contact Jerry Fisher or Roy Field, Office of Safety and Security, FTA, telephone 202-366-2233, fax 202-366-7951. For questions on viewing or submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

FTA encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [FTA 2002-11440] and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES** above. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**, but please submit your comments and materials by only one means. FTA will consider all comments and material received during the comment period.

##### Regulatory Information

The FTA is publishing a direct final rule because it anticipates no adverse comment. If no adverse comment or written notice of intent to submit an adverse comment is received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30

days before the effective date, FTA will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if FTA receives a written adverse comment or written notice of intent to submit an adverse comment, it will publish a document in the **Federal Register** announcing withdrawal of all or part of this rule. If FTA decides to proceed with a rulemaking following receipt of an adverse comment, FTA will publish a separate Notice of Proposed Rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered “adverse” if the comment explains why this rule would be inappropriate, including a challenge to the rule’s underlying premise or approach, or why it would be ineffective or unacceptable without a change.

##### Background and Purpose

This rulemaking will remove the term “accident” under this section and add in its place the definition and term “major incident.” This action is taken because FTA’s review of the NTD, as mandated by the Department of Transportation’s FY 2000 Appropriations Act, resulted in revisions of the Safety and Security Module of the NTD “Reporting Manual for 2002.” Consequently, the definition of “accident” in Part 659.5 has been removed and replaced with the definition and term “major incident” in this part. The amended reporting criteria include an expanded field of causal events and reporting thresholds. “Major Incidents” include both safety and security occurrences that involve fatalities, multiple injuries, property damage and evacuations resulting from both accidents and crimes.

FTA solicited input from NTD stakeholders, which include rail transit agencies reporting to State Oversight Agencies as required by the State Safety Oversight regulations. It was apparent that two accident/incident reporting definitions would cause confusion, generate inconsistent data, and create an additional burden for rail transit reporters.

Although this rule consists of a change in definition and conforms this section with the NTD reporting requirement, it is emphasized that the reporting requirement of § 659.39, which permits the State Oversight Agency to specify the period of time in which an affected agency must report accidents/major incidents, has not been changed.

##### Regulatory Evaluation

This direct final rule 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. Since the rule is not significant under this Order, it has not been reviewed by the Office of Management and Budget. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Federal Transit Administration (FTA) expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This direct final rule would remove the phrase and definition of “accident” in 49 CFR part 659 and add in its place the phrase and definition of “major incident” in order to be consistent with the revised reporting requirements of the NTD. Consequently, this rule would not impose any mandatory cost on the agencies it involves. Any incremental costs are negligible, and the policy and economic impact will have no significant effect.

##### Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FTA considers whether this rule will have a significant economic impact on a substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

FTA expects that this rule would have a minimal economic impact on small entities. It will provide greater clarity and ease of implementation for small entities by conforming FTA’s regulatory definition to that of the NTD.

##### Paperwork Reduction Act

This rule includes information collection requirements subject to the Paperwork Reduction Act of 1995 (PWRA) (44 U.S.C. 3501, *et. seq.*) The Office of Management and Budget approved FTA’s PWRA request for part 659 under OMB 2132-0558. This rule includes the same information collection previously approved by OMB.

##### Executive Order 13132

FTA has analyzed this rule under the principles and criteria contained in Executive Order 13132, and has determined that this rule does not have sufficient implications for Federalism to

warrant the preparation of a Federalism Assessment. This rulemaking only removes the definition and term "accident" in part 659 and replaces it with the definition and phrase "major incident;" therefore a Federal assessment is unnecessary.

#### Other Executive Orders

There are a number of other Executive Orders that can affect rulemakings. These include Executive Orders 13084 (Consultation and Coordination with Indian Tribal Governments), 12988 (Civil Justice Reform), 12875 (Enhancing the Intergovernmental Partnership), 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights), 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), 13045 (Protection of Children from Environmental Health Risks and Safety Risks), and 12889 (Implementation of North American Free Trade Agreement). We have considered these Executive Orders in the context of this rule, and we believe that the rule does not directly affect the matters covered by the Executive Orders.

#### List of Subjects in 49 CFR Part 659

Railroads.

For the reasons discussed in the preamble, FTA amends 49 CFR Part 659 as follows:

#### PART 659—RAIL FIXED GUIDEWAY SYSTEMS: STATE SAFETY OVERSIGHT

1. The authority citation for Part 659 continues to read as follows:

**Authority:** 49 U.S.C. 5330.

2. Amend § 659.5 by removing the definition for "Accident" and adding in alphabetical order a new definition for "Major Incident" and revising the definition for "Investigation" as follows:

#### § 659.5 Definitions.

*Investigation* means a process to determine the probable cause of a major incident or an unacceptable hazardous condition; it may involve no more than a review and approval of the transit agency's determination of the probable cause of a major incident or unacceptable hazardous condition.

*Major Incident* means any event involving a transit vehicle or occurring on a transit-controlled property, involving one or more of the following:

- (1) A fatality;
- (2) Injuries requiring immediate medical attention away from the scene for two or more persons;

- (3) Property damage equal to or exceeding \$25,000;
- (4) An evacuation due to life safety reasons;
- (5) A collision at a grade crossing;
- (6) A main-line derailment;
- (7) A collision with person(s) on a right-of-way resulting in injuries that require immediate medical attention away from the scene for one or more persons; and
- (8) A collision between a rail transit vehicle and other rail transit vehicle or a transit non-revenue vehicle resulting in injuries that require immediate medical attention away from the scene for one or more persons.

\* \* \* \* \*

#### § 659.39 [Amended]

3. Amend § 659.39 by removing the word "accidents" from the paragraph and section heading and add in its place the words "major incidents."

#### § 659.41 [Amended]

4. Amend § 659.41 by removing the word "accidents" in paragraphs (a) and (b) and add in its place the word "major incidents."

#### § 659.45 [Amended]

5. Amend § 659.45 by removing the word "accidents" in paragraphs (b) and (c) and add in its place the word "major incidents."

Dated: March 28, 2002.

**Jennifer L. Dorn,**  
*Administrator, Federal Transit Administration.*

[FR Doc. 02-8051 Filed 4-2-02; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

**[OPP-301223; FRL-6828-4]**

**RIN 2070-AB78**

#### Furilazole; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of the inert ingredient (herbicide safener) 3-dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine, which is also known as furilazole (CAS Reg. No. 121776-33-8) in or on corn commodities. Monsanto Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective April 3, 2002. Objections and requests for hearings, identified by docket control number OPP-301223, must be received by EPA on or before June 3, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301223 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 703 305-6304; and e-mail address: boyle.kathryn@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from