

subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDC section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDC section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal

governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

**VIII. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller

General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 31, 2016.

**G. Jeffrey Herndon,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.920, add alphabetically the inert ingredient to the table to read as follows:

**§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.**

\* \* \* \* \*

Inert ingredients	Limits	Uses
* * * * *		
1,2-Propanediol, 3-[3-[1, 3, 3, 3-tetramethyl-1-[(trimethylsilyl)oxy]-1-disiloxyanyl] propoxy]- (CAS Reg. No. 70280-68-1).	Not to exceed 5% by weight of pesticide formulation.	Antifoaming agent.
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**GULF COAST ECOSYSTEM RESTORATION COUNCIL**

**40 CFR Part 1800**

[Docket Number: 104122016-1111-01]

**RESTORE Act Spill Impact Component Allocation**

**AGENCY:** Gulf Coast Ecosystem Restoration Council.

**ACTION:** Notice of effective date of final rule.

**SUMMARY:** This document confirms that on April 4, 2016, the United States District Court for the Eastern District of Louisiana entered a consent decree (Consent Decree) among the United States; the states of Alabama, Florida, Louisiana, Mississippi and Texas; and BP Exploration and Production Inc.

with respect to the civil penalty and natural resource damages in case number MDL No. 2179. The Gulf Coast Ecosystem Restoration Council (Council) regulation (Spill Impact Regulation) that implements the Spill Impact Component Allocation of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) is effective as of the date of publication of this document.

**DATES:** The Spill Impact Regulation is effective on April 12, 2016.

**FOR FURTHER INFORMATION CONTACT:** Will Spoon at (504) 239-9814.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 15, 2015, the Council published the Spill Impact Regulation in the **Federal Register** (80 FR 77580), to be effective on the date that the Council publishes this document in the **Federal Register** confirming that the

United States District Court for the Eastern District of Louisiana has entered the Consent Decree.

On April 4, 2016, the United States District Court for the Eastern District of Louisiana entered the Consent Decree. The Council confirms such entry by publication of this document, and the Spill Impact Regulation is therefore effective.

For more information on the Spill Impact Regulation, please see the final rule (80 FR 77580, December 15, 2015).

**Procedural Requirements**

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

As an independent Federal entity that is comprised, in part, of the Secretaries of the Departments of the Interior, Agriculture, Commerce and Homeland Security; the Secretary of the Army; and the Administrator of Environmental Protection Agency, the requirements of Executive Orders 12866 and 13563 do not apply to this document.

*Paperwork Reduction Act*

This document contains no collection of information requirements. Therefore the Paperwork Reduction Act does not apply to this document.

(Authority: 33 U.S.C. 1321(t).)

**Justin R. Ehrenwerth,**

*Executive Director, Gulf Coast Ecosystem Restoration Council.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 447

[CMS-2328-F2]

RIN 0938-AS89

#### Medicaid Program; Deadline for Access Monitoring Review Plan Submissions

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** In the November 2, 2015 *Federal Register*, we published a final rule with comment period entitled “Medicaid Program: Methods for Assuring Access to Covered Medicaid Services.” The final rule with comment period established that states must develop and submit to CMS an access monitoring review plan by July 1, 2016. This document revises the deadline for states’ access monitoring review plan submission to CMS until October 1, 2016.

**DATES:** *Effective Date:* These regulations are effective on April 8, 2016.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Silanskis, (410) 786-1592.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the November 2, 2015 *Federal Register* (80 FR 67576), we published the “Medicaid Program: Methods for Assuring Access to Covered Medicaid Services” final rule with comment period that outlined a transparent data-driven process for states to document whether Medicaid payments are sufficient to enlist providers to assure beneficiary access to covered care and services consistent with section 1902(a)(30)(A) of the Social Security Act (the Act). This final rule with comment period included new § 447.203(b)(1) through (8) and revisions to

§ 447.203(b). These regulations established that states must develop and submit to CMS an access monitoring review plan by July 1, 2016 for the following service categories: Primary care services (including those provided by a physician, FQHC, clinic or dental care); physician specialist services (for example, cardiology, urology, radiology); behavioral health services (including mental health and substance use disorder); pre- and post-natal obstetric services, including labor and delivery; and home health services.

##### II. Discussion and Provisions of This Final Regulation

In the November 2, 2015 final rule with comment period, we solicited comments on § 447.203(b)(5). Specifically, we solicited comments on the scope of services required for ongoing review in the review plans, the elements of review required through the plans, whether we should allow exemptions to the rule based on state program characteristics (for example, high managed care enrollment), and the deadline for submission of the initial access monitoring review plan. We received many comments that were outside of the scope of issues on which we solicited comments. Several commenters raised concerns over CMS’s characterization in the regulatory preamble of the Supreme Court Decision: *Armstrong v. Exceptional Child Center, Inc.*, 135 S. Ct. 1378 (2015). Though we did not solicit comments on this issue, we agree with commenters that the decision is subject to judicial interpretation and we did not intend to imply an interpretation by the agency.

The following is a summary of the comments and our responses on § 447.203(b)(5).

*Comment:* We received many comments requesting that CMS not allow exemptions based on high managed care enrollment or other program features.

*Response:* While we continue to consider whether exemptions might be warranted in some circumstances, we believe that further experience with the access monitoring review system set forth in the final rule with comment period is necessary to determine the appropriate circumstances. The commenters did not offer consistent suggestions or supporting evidence to set a threshold that could exempt states, nor any suggestions for alternatives states might use to demonstrate compliance with section 1902(a)(30)(A) of the Act outside of the final rule with comment period requirements.

*Comment:* A number of commenters recommended that CMS expand the services that CMS requires states to review in access monitoring plans.

*Response:* Commenters that requested additional services did not provide sufficient data to compel us to modify the list of core services subject to the ongoing access reviews. The core services included in the final rule with comment period (that is, primary care services, physician specialist services, behavioral health services, pre- and post-natal obstetric services and home health services) were selected because they are frequently used services in Medicaid and access to these services indicates that an individual has primary sources of care, which may increase the likelihood of having their care needs met. We also note the final rule with comment period provides providers an opportunity and mechanism to bring access concerns to the attention of state Medicaid agencies and provide feedback on rate changes that may have a negative effect on access before states submit proposals to CMS.

*Comment:* Several commenters requested CMS change the due date by which states are required to develop and submit the initial Access Monitoring Review Plans. Commenters noted that state agency staff may have difficulty developing and submitting the initial review plans within the July 1, 2016 timeframe for first year reviews. These commenters offered several different dates as an alternative, including: January 1, 2017, July 1, 2017, and 6 months following the close of the state’s next legislative session. A number of other commenters requested CMS maintain the timelines established in the final rule.

*Response:* We established the July 1, 2016 deadline for developing and submitting the access monitoring review plans in the final rule with comment period after careful consideration of issues raised through comments on the notice of proposed rulemaking (76 FR 26342) and after weighing all of the policies discussed in the final rule. Since issuing the final rule with comment period, we have been working closely with states on developing the access monitoring review plans. States are actively engaged in developing plans and have raised significant concerns over fulfilling the requirements of the rule by the July 1, 2016 deadline. Several states have noted that additional time will allow them to develop more robust and proficient review plans, and leave them better prepared to analyze and monitor compliance with section 1902(a)(30)(A) of the Act. We agree with this assessment and believe that there