



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

December 27, 2019

Ms. Nicole McKnight
Acting Associate Regional Administrator
Department of Health & Human Services
Centers for Medicare & Medicaid Services
New York Regional Office
Division of Medicaid and Children's Health Operations
26 Federal Plaza - Room 37-100 North
New York, New York 10278

RE: SPA #19-0053
Non-Institutional Services

Dear Ms. McKnight:

The State requests approval of the enclosed amendment #19-0053 to the Title XIX (Medicaid) State Plan for non-institutional services to be effective October 1, 2019 (Appendix I). This amendment is being submitted based on enacted legislation. A summary of the plan amendment is provided in Appendix II.

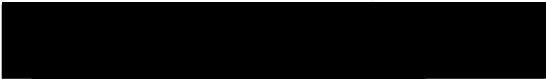
The State of New York reimburses these services through the use of rates that are consistent with and promote efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area as required by §1902(a)(30) of the Social Security Act and 42 CFR §447.204.

A copy of pertinent sections of enacted legislation is enclosed for your information (Appendix III). A copy of the public notice of this plan amendment, which was given in the New York State Register on September 4, 2019, is also enclosed for your information (Appendix IV).

The State has updated their MCOs' contracts for compliance with section 1004 of the SUPPORT for Patients and Communities Act and the DUR regulations as described in section 1927(g) of the Act and 42 CFR part 456, subpart K.

If you have any questions regarding this State Plan Amendment submission, please do not hesitate to contact Regina Deyette, Medicaid State Plan Coordinator, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 473-3658.

Sincerely,


Donna Frescatore
Medicaid Director
Office of Health Insurance Programs

Enclosures

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

1 9 — 0 0 5 3

2. STATE

New York

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)
TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

October 1, 2019

5. TYPE OF PLAN MATERIAL (Check One)

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION

§ 1902(a) of the Social Security Act and 42 CFR 447

7. FEDERAL BUDGET IMPACT

a. FFY 10/01/19-09/30/20 \$ 0.00

b. FFY 10/01/20-09/30/21 \$ 0.00

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Attachment 3.1A: Pages 2(c.1), 2(c.1.a)

Attachment 3.1B: Pages 2(c.1), 2(c.1.a)

Attachment 1.1: Page 74d

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

Attachment 3.1A: Page 2(c.1)

Attachment 3.1B: Page 2(c.1)

10. SUBJECT OF AMENDMENT

DUR Support Act Requirements
(FMAP=50%)

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT

OTHER, AS SPECIFIED

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL

13. TYPED NAME

Donna Frescatore

14. TITLE

Medicaid Director, Department of Health

15. DATE SUBMITTED

December 27, 2019

16. RETURN TO

New York State Department of Health
Division of Finance and Rate Setting
99 Washington Ave – One Commerce Plaza
Suite 1432
Albany, NY 12210

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED

18. DATE APPROVED

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL

20. SIGNATURE OF REGIONAL OFFICIAL

21. TYPED NAME

22. TITLE

23. REMARKS

Appendix I
2019 Title XIX State Plan
Fourth Quarter Amendment
Amended SPA Pages

New York
74d

1902(a)(85) and Section 1004 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act)

K. Claim Review Limitations

- Prospective safety edits on opioid prescriptions to address days' supply, early refills, duplicate fills and quantity limitations for clinical appropriateness.
- Prospective safety edits on maximum daily morphine milligram equivalents (MME) on opioids prescriptions to limit the daily morphine milligram equivalent (as recommended by clinical guidelines).
- Retrospective reviews on opioid prescriptions exceeding these above limitations on an ongoing basis.
- Retrospective reviews on concurrent utilization of opioids and benzodiazepines as well as opioids and antipsychotics on an ongoing periodic basis.

Programs to monitor antipsychotic medications to children: Antipsychotic agents are reviewed for appropriateness for all children including foster children based on approved indications and clinical guidelines.

Fraud and abuse identification: The DUR program has established a process that identifies potential fraud or abuse of controlled substances by enrolled individuals, health care providers and pharmacies.

TN #19-0053

Approval Date _____

Supersedes TN NEW

Effective Date _____

**New York
2(c.1)**

8. The State will cover APIs that are included in extemporaneously compounded prescriptions when the API serves as the active drug component in the compounded formulation. A current list of covered APIs can be found at the following at:

<https://www.emedny.org/info/formfile.aspx>

[13c. Preventive Services

New York State Medicaid covers and reimburses all United States Preventive Services Task Force (USPSTF) grade A and B preventive services and approved vaccines recommended by the Advisory Committee on Immunization Practices (ACIP), and their administration, without cost-sharing, when provided in a practitioner's office.

Preventive Services specified in section 4106 of the Affordable Care Act are all available under the State Plan and are covered under the physician, other practitioner, nurse-midwife and nurse practitioner service benefits and are reimbursed according to the methodologies provided in Attachment 4.19-B.

The State will maintain documentation supporting expenditures claimed for these Preventive Services and ensure that coverage and billing codes comply with any changes made to the USPSTF or ACIP recommendations.]

9. The State is in compliance with the drug review and utilization requirements under Section 1902 of the Social Security Act, section 1001(o). DUR activities include but are not limited to the following:

Claims Review Limitations

Point of Sale edits:

- to prevent duplicate fill and early fill as per Social Services and Public Health Laws,
- to prevent claims over set quantity and dose limits per industry recommendations,
- to prevent overlapping claims over the MME limit as recommended by current CDC guidelines per member.

RetroDUR activities for both opioid and benzodiazepine and opioids and antipsychotics monitoring, polypharmacy identification, and includes the development and distribution of provider letters.

Program to Monitor Antipsychotic Medications by Children

Monitors and manages the utilization of antipsychotics in children and reports results annually to CMS.

Utilization is managed by utilizing age edits for each individual agent, based on FDA approved product information and Compendia support; confirmation of diagnoses that support concurrent use of central nervous system stimulants and oral second-generation antipsychotics clinical criteria for frequency, quantity and duration is implemented on select antipsychotic medications.

TN #19-0053 _____

Approval Date _____

Supersedes TN #13-0026 _____

Effective Date _____

**New York
2(c.1.a)**

9. (continued)

Fraud and Abuse Identification

Evaluates opioid utilization trends and submits referrals to the State Office of Medicaid Investigator General (OMIG) on monthly basis.

Medicaid Managed Care Organization Requirements

Medicaid MCO contracts include the requirement to be in compliance with the drug review and utilization activities specified under Section 1902 of the Social Security Act, section 1001(o).

13c. Preventive Services

New York State Medicaid covers and reimburses all United States Preventive Services Task Force (USPSTF) grade A and B preventive services and approved vaccines recommended by the Advisory Committee on Immunization Practices (ACIP), and their administration, without cost-sharing, when provided in a practitioner's office.

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TN #19-0053 _____

Approval Date _____

Supersedes TN #NEW _____

Effective Date _____

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2(c.1)**

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TN #19-0053 _____

Approval Date _____

Supersedes TN #13-0026 _____

Effective Date _____

**New York
2(c.1.a)**

9. (continued)

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Medicaid MCO contracts include the requirement to be in compliance with the drug review and utilization activities specified under Section 1902 of the Social Security Act, section 1001(o).

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The State will maintain documentation supporting expenditures claimed for these Preventive Services and ensure that coverage and billing codes comply with any changes made to the USPSTF or ACIP recommendations.

TN #19-0053

Approval Date _____

Supersedes TN #NEW

Effective Date _____

Appendix II
2019 Title XIX State Plan
Fourth Quarter Amendment
Summary

SUMMARY
SPA #19-0053

This amendment proposes to revise the State Plan to provide that the State is in compliance with the new drug review and utilization requirements set forth in Section 1902(o) of the Act, as amended by Section 1004 of the SUPPORT for Patients and Communities Act and as requested by CMS in a letter to State Medicaid Directors dated 08/05/2019 (SMD18005).

Appendix III
2019 Title XIX State Plan
Fourth Quarter Amendment
Authorizing Provisions

H. R. 6

One Hundred Fifteenth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the third day of January, two thousand and eighteen*

An Act

To provide for opioid use disorder prevention, recovery, and treatment, and for other purposes.

SEC. 1004. MEDICAID DRUG REVIEW AND UTILIZATION.

(a) MEDICAID DRUG UTILIZATION REVIEW.—

(1) STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 1001, is further amended—

(A) in paragraph (83), at the end, by striking “and”;

(B) in paragraph (84), at the end, by striking the period and inserting “; and”; and

(C) by inserting after paragraph (84) the following new paragraph:

“(85) provide that the State is in compliance with the drug review and utilization requirements under subsection (oo)(1).”.

(2) DRUG REVIEW AND UTILIZATION REQUIREMENTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 1001, is further amended by adding at the end the following new subsection:

“(oo) DRUG REVIEW AND UTILIZATION REQUIREMENTS.—

“(1) IN GENERAL.—For purposes of subsection (a)(85), the drug review and utilization requirements under this subsection are, subject to paragraph (3) and beginning October 1, 2019, the following:

“(A) CLAIMS REVIEW LIMITATIONS.—

“(i) IN GENERAL.—The State has in place—

“(I) safety edits (as specified by the State) for subsequent fills for opioids and a claims review automated process (as designed and implemented by the State) that indicates when an individual enrolled under the State plan (or under a waiver of the State plan) is prescribed a subsequent fill of opioids in excess of any limitation that may be identified by the State;

“(II) safety edits (as specified by the State) on the maximum daily morphine equivalent that can be prescribed to an individual enrolled under the State plan (or under a waiver of the State plan) for treatment of chronic pain and a claims review automated process (as designed and implemented by the State) that indicates when an individual

enrolled under the plan (or waiver) is prescribed the morphine equivalent for such treatment in excess of any limitation that may be identified by the State; and

“(III) a claims review automated process (as designed and implemented by the State) that monitors when an individual enrolled under the State plan (or under a waiver of the State plan) is concurrently prescribed opioids and—

“(aa) benzodiazepines; or

“(bb) antipsychotics.

“(ii) **MANAGED CARE ENTITIES.**—The State requires each managed care entity (as defined in section 1932(a)(1)(B)) with respect to which the State has a contract under section 1903(m) or under section 1905(t)(3) to have in place, subject to paragraph (3), with respect to individuals who are eligible for medical assistance under the State plan (or under a waiver of the State plan) and who are enrolled with the entity, the limitations described in subclauses (I) and (II) of clause (i) and a claims review automated process described in subclause (III) of such clause.

“(iii) **RULES OF CONSTRUCTION.**—Nothing in this subparagraph may be construed as prohibiting a State or managed care entity from designing and implementing a claims review automated process under this subparagraph that provides for prospective or retrospective reviews of claims. Nothing in this subparagraph shall be understood as prohibiting the exercise of clinical judgment from a provider enrolled as a participating provider in a State plan (or waiver of the State plan) or contracting with a managed care entity regarding the best items and services for an individual enrolled under such State plan (or waiver).

“(B) **PROGRAM TO MONITOR ANTIPSYCHOTIC MEDICATIONS BY CHILDREN.**—The State has in place a program (as designed and implemented by the State) to monitor and manage the appropriate use of antipsychotic medications by children enrolled under the State plan (or under a waiver of the State plan) and submits annually to the Secretary such information as the Secretary may require on activities carried out under such program for individuals not more than the age of 18 years generally and children in foster care specifically.

“(C) **FRAUD AND ABUSE IDENTIFICATION.**—The State has in place a process (as designed and implemented by the State) that identifies potential fraud or abuse of controlled substances by individuals enrolled under the State plan (or under a waiver of the State plan), health care providers prescribing drugs to individuals so enrolled, and pharmacies dispensing drugs to individuals so enrolled.

“(D) **REPORTS.**—The State shall include in the annual report submitted to the Secretary under section 1927(g)(3)(D) information on the limitations, requirement, program, and processes applied by the State under subparagraphs

(A) through (C) in accordance with such manner and time as specified by the Secretary.

“(E) CLARIFICATION.—Nothing shall prevent a State from satisfying the requirement—

“(i) described in subparagraph (A) by having safety edits or a claims review automated process described in such subparagraph that was in place before October 1, 2019;

“(ii) described in subparagraph (B) by having a program described in such subparagraph that was in place before such date; or

“(iii) described in subparagraph (C) by having a process described in such subparagraph that was in place before such date.

“(2) ANNUAL REPORT BY SECRETARY.—For each fiscal year beginning with fiscal year 2020, the Secretary shall submit to Congress a report on the most recent information submitted by States under paragraph (1)(D).

“(3) EXCEPTIONS.—

“(A) CERTAIN INDIVIDUALS EXEMPTED.—The drug review and utilization requirements under this subsection shall not apply with respect to an individual who—

“(i) is receiving—

“(I) hospice or palliative care; or

“(II) treatment for cancer;

“(ii) is a resident of a long-term care facility, of a facility described in section 1905(d), or of another facility for which frequently abused drugs are dispensed for residents through a contract with a single pharmacy; or

“(iii) the State elects to treat as exempted from such requirements.

“(B) EXCEPTION RELATING TO ENSURING ACCESS.—In order to ensure reasonable access to health care, the Secretary shall waive the drug review and utilization requirements under this subsection, with respect to a State, in the case of natural disasters and similar situations, and in the case of the provision of emergency services (as defined for purposes of section 1860D-4(c)(5)(D)(ii)(II)).”.

(3) MANAGED CARE ENTITIES.—Section 1932 of the Social Security Act (42 U.S.C. 1396u-2) is amended by adding at the end the following new subsection:

“(i) DRUG UTILIZATION REVIEW ACTIVITIES AND REQUIREMENTS.—

Beginning not later than October 1, 2019, each contract under a State plan with a managed care entity (other than a primary care case manager) under section 1903(m) shall provide that the entity is in compliance with the applicable provisions of section 438.3(s)(2) of title 42, Code of Federal Regulations, section 483.3(s)(4) of such title, and section 483.3(s)(5) of such title, as such provisions were in effect on March 31, 2018.”.

**Appendix IV
2019 Title XIX State Plan
Fourth Quarter Amendment
Public Notice**

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE Department of Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for September 2019 will be conducted on September 18 and September 19 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>.

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. One, Albany, NY 12239, (518) 473-6598

PUBLIC NOTICE Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to comply with Federal enacted statutory provisions. The following changes are proposed:

Non-Institutional Services

Effective on or after October 1, 2019, this proposes to provide that the state is in compliance with new drug review and utilization requirements set forth in section 1902(o) of the Act, as amended by Section 1004 of the SUPPORT for Patients and Communities Act.

There is no additional estimated annual change to gross Medicaid expenditures as a result of the clarifying proposed amendments.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210. spa_inquiries@health.ny.gov

PUBLIC NOTICE

Oneida-Herkimer Solid Waste Management Authority
Draft Request For Proposals (RFP)
Purchase and/or Marketing of Processed
Paper Recyclables
For Oneida-Herkimer Solid Waste
Management Authority

Pursuant to New York State General Municipal Law, Section 120-w, the Oneida-Herkimer Solid Waste Authority hereby gives notice of the following:

The Oneida-Herkimer Solid Waste Authority desires to procure an agreement for 5 years beginning January 1, 2020 for the purchase and/or marketing of paper recyclables processed at the Oneida-Herkimer Recycling Center, Utica, NY. Written comments on the Draft RFP must be received by 1:00 P.M. on November 4, 2019.

In order to promote its established Affirmative Action Plan, the Authority invites proposals from minority and women's business enterprises (M/WBE). Firms that are not M/WBE's responding to this RFP are strongly encouraged to consider partnering or creating other similar joint venture arrangements with certified M/WBE's. The directory of New York State Certified M/WBE's can be viewed at <http://www.esd.ny.gov/mwbe.html>. This Affirmative Action Policy regarding sealed bids and contracts applies to all persons without regard to race, color, creed, national origin, age, sex, or handicap. All qualified bidders will be afforded equal opportunities without discrimination.

Copies of the Draft RFP may be obtained at: www.ohswa.org or

through Emily M. Albright, Director of Recycling, Oneida-Herkimer Solid Waste Authority, 1600 Genesee St., Utica, NY 13502, (315) 733-1224, e-mail: emilya@ohswa.org

PUBLIC NOTICE

Department of State
F-2019-0478t

Date of Issuance – September 4, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0478 or the “Yerganian Residence Dock”, the applicant Gary Yerganian, is proposing to replace an existing fixed dock in place and kind which includes a fixed dock, three floating docks and reinstalling the existing aluminum ramp. The applicant proposes to install three prefabricated 5 foot by 12 foot 7 inch jet ski floats. The project is located at 30 Spring Hollow Road, Town of Huntington, Suffolk County, Northport Harbor.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0478_Yerganian_Dock_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or September 19, 2019.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2019-0740t

Date of Issuance – September 4, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant’s consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

4919 Noyac, LLC proposes to demolish a pre-existing wood dock. To construct a new dock for residential use that consists of a 4’ x 10’ ramp up; connecting to a 4’ x 43’ fixed pier catwalk measuring 4.5’ above grade over vegetation (per ACOE) and 26” above MHW over open water; connecting to a 4’ x 14’ ramp down; connecting to a 6’ x 20’ float. Ramps and catwalk to be constructed with thru-flow decking to allow for light penetration. Pilings, girders, ledger, and float to be constructed with untreated tropical hardwood. The pier length seaward of MHW measures 60’. The project is located at 4519 Noyack Road, Southampton, NY 11968 on Ligonee Brook.

The applicant’s consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0740NoyacLLC.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or October 4, 2019.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2019-0775 (DA)t

Date of Issuance – September 4, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent to the maximum extent practicable with the federally approved New York State Coastal Management Program (NYSCMP). The applicant’s consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2019-0775-DA, the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) is proposing to enact an Omnibus Deep-Sea Coral Amendment which would affect several commercial fisheries operating in offshore Atlantic Ocean areas along the outer continental shelf and within two (2) designated areas in the Gulf of Maine. The purpose of the Omnibus Deep-Sea Coral Amendment is to implement measures that reduce impacts of fishing gear on deep-sea corals in these areas.

This action would prohibit the use of mobile bottom-tending gear (i.e. bottom trawls, dredges, bottom longlines, sink gillnets, or pots/traps) in two areas within the Gulf of Maine – 1) Mount Desert Rock and 2) Outer Schoodic Ridge – and would prohibit the use of all gear (with an exception for red crab pots) along the outer continental shelf in waters no shallower than 600 meters.

An Environmental Assessment (EA) has been prepared and is available at the New England Fishery Management Council (NEFMC) website at: <https://www.nefmc.org/library/omnibus-deep-sea-coral-amendment>

The federal agency’s consistency determination and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York or at the following location: <https://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0775-DA.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or October 04, 2019.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Comments can also be submitted electronically via e-mail to: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930