RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CHILDREN AND FAMILIES

(a)

CHILD PROTECTION AND PERMANENCY

Substance-Affected Infants

Proposed New Rules: N.J.A.C. 3A:26-1.1 and 1.4

Proposed Amendment: N.J.A.C. 3A:26-1.2

Proposed Repeal: N.J.A.C. 3A:26-1.3

Proposed Recodification with Amendments: N.J.A.C. 3A:26-1.1 as 1.3

Authorized By: Christine Norbut Beyer, M.S.W., Commissioner, Department of Children and Families.

Authority: N.J.S.A. 9:3A-7f, 9:6-8.15, 26:2H-5, and 30:4C-4.h.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-098.

Submit written comments by October 3, 2025, to:

Kristin Matera, Regulatory Officer
Office of Policy and Regulatory Development
Department of Children and Families
PO Box 717
Trenton, New Jersey 08625
email: rules@dcf.nj.gov

The agency proposal follows:

Summary

The Child Abuse Prevention and Treatment Act (CAPTA) State Grant program provides Federal funding to assist states in improving their child protective systems. See 42 U.S.C. §§ 5101 et seq. Since 2003, CAPTA has required each state to provide assurances that the state is addressing the needs of infants who are affected by substances at birth. See CAPTA sections 106(b)(2)(B)(ii) and (iii). To establish eligibility for the CAPTA State Grant program, each state must submit a plan and certify that the state has policies and procedures in place to address the needs of substance-affected infants, including referrals to appropriate services for those affected by prenatal substance use. The provisions further include a requirement that health care providers involved in the delivery or care of infants who are identified as substance-affected, notify the state child protective services agency of the birth. See CAPTA section 106(b)(2)(B)(ii).

N.J.A.C. 3A:26, Substance-Affected Infants, establishes the procedures for submitting notifications to the Division of Child Protection and Permanency (Division) following the birth of a substance-affected infant. The existing rules provide for substance-affected infant notifications to be submitted by calling the emergency telephone service that the Division maintains pursuant to N.J.S.A. 9:6-8.12, for the purpose of accepting calls related to suspected child abuse and neglect.

The Department of Children and Families (Department) proposes updates throughout the chapter consistent with CAPTA that would provide an additional pathway through which providers in health care facilities may submit notifications in accordance with CAPTA section 106(b)(2)(B)(ii). The purpose of the proposed amendments is to provide an online notification system outside of the child protective services system that fulfills the statutory requirements and goals of CAPTA in providing families affected by substance use with plans, referrals, and follow-up care for the purposes of promoting safety, health, and prevention. Notifications that are submitted through the portal allow services to be provided outside of the child protection system, while carrying out the public health and prevention purposes that CAPTA was enacted to achieve. See CAPTA sections 106(b)(2)(B)(ii) and (iii) and 106(d). The proposed notification pathway further aligns with the New Jersey Supreme Court's longstanding recognition that "[d]rug use during pregnancy, in and of itself, does not constitute a harm to the child." See, for example, *New Jersey Div. of Child Protection and Permanency v. Y.N.*, 220 *N.J.* 165 (2014), *aff'ed on remand*, *New Jersey Div. of Child Protection and Permanency v. Y.N.*, 222 *N.J.* 308 (2015) (vacating the judgment of the trial court finding abuse and neglect).

The Department is proposing amendments and new rules and the reorganization of the chapter, including the recodification of existing N.J.A.C. 3A:26-1.1 as 1.3. The proposed changes would provide a new pathway for substance-affected infant notifications that is separate and distinct from the Division's child abuse and neglect reporting system.

The Department proposes amendments throughout the chapter to add defined terms in place of descriptive text that is redundant of the defined terms, to improve grammar and readability, and to reorganize sections to enhance their consistency with current rulemaking conventions. Throughout the chapter, amendments are proposed to delete the term "report" and replace it with the term "notification" where the term "report" is used to refer to the notification requirement of a substance-affected infant.

The Department proposes to recodify existing N.J.A.C. 3A:26-1.1, Reports of substance-affected infants, with amendments, as N.J.A.C. 3A:26-1.3, Notification procedures. The Department proposes new N.J.A.C. 3A:26-1.1, Purpose and scope, to establish the purpose and scope of the chapter as ensuring compliance with the CAPTA notifications requirement. New N.J.A.C. 3A:26-1.1(a) describes the rules as family-focused, preventative, and public health oriented. N.J.A.C. 3A:26-1.1(b) and (c) further clarify that the chapter establishes separate and distinct systems for receiving reports of child abuse and neglect and for receiving notifications from health care providers in health care facilities that include de-identified information related to the delivery hospitalization of a substance-affected infant.

N.J.A.C. 3A:26-1.2 provides the chapter-specific definitions. Additional definitions are proposed for the terms "controlled substance," "family care plan," "health care facility," "health care provider," "notification," "report," "toxicology confirmation testing," and "toxicology screening." Family care plan is the updated term that the Department now uses to refer to the plan of safe care described by CAPTA section 106(b)(2)(B)(iii). In the State of New Jersey, the personalized document that is developed to ensure the safety and well-being of a substance-affected infant is now known as a family care plan instead of a Plan of Safe Care. The term "health care provider" is added to identify the employees at hospitals and birth centers that are subject to the licensing rules at N.J.A.C. 8:43A-28.7 or 8:43G-2.13, as appropriate.

In 2016, the Comprehensive Addiction and Recovery Act (CARA), P.L. 114-198, amended CAPTA section 106(b)(2)(B)(ii) to remove the term "illegal" as applied to substance-affected infants. The Department's proposed definition of "controlled substance" identifies the substances that would be considered to affect an infant if ingested by a birthing individual, such that the infant would be considered substance-affected. The terms "notification" and "report" are added to the definitions at N.J.A.C. 3A:26-1.2. The inclusion of the definitions for these terms is meant to distinguish a report that involves child abuse or neglect from a notification that is submitted by a health care provider for purposes of compliance with CAPTA section 106(b)(2)(B)(ii). The Department further seeks to replace the definition of "substance-affected infant" for clarity and to confirm that a presumptive positive result from a toxicology screen is not considered to be sufficient evidence to classify an infant as a substance-affected infant, unless the screen is confirmed by toxicology confirmation testing. In addition, definitions for "toxicology confirmation testing" and "toxicology screening" are proposed at N.J.A.C. 3A:26-1.2.

Existing N.J.A.C. 3A:26-1.3, Content of reports, establishes the information that must be included in a notification, previously identified as a report, to the Division. The Department proposes to repeal existing N.J.A.C. 3A:26-1.3 and to relocate the content criteria to new N.J.A.C. 3A:26-1.4, Content of notifications. The Department proposes updated notification criteria to include only de-identified information and to ensure that notifications satisfy CAPTA reporting requirements.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Department anticipates a positive social impact of the proposed amendments, new rules, and repeal, which will provide clear guidance to hospitals and birthing centers regarding obligations to submit a de-identified notification to the Division upon the birth of a substance-affected infant in certain circumstances and to facilitate referrals of substance-affected infants to risk-appropriate care. As provided in greater detail in the Economic Impact, the Department receives a substantial amount of aid from the Federal government to support substance-affected infants. Ensuring compliance with CAPTA and the associated Federal aid will ensure that the Department can continue to run these critical programs.

Economic Impact

The proposed amendments, new rules, and repeal are not expected to have a discernible economic impact on the facilities. Health care providers are already required to document and notify the Division when a birth involves a substance-affected infant pursuant to the Department of Health's existing rules at N.J.A.C. 8:43A-28 and 8:43G. Likewise, discharge planning is already part of the processes established and implemented by hospitals and other health care facilities for the release of patients following the birth of a child. Discharge procedures encompass follow-up care referrals and appointments to address the health and care of the infant, birthing parent, and caregivers. Substance use disorder is a diagnosable medical condition within the scope of established discharge procedures and requirements. Although minor changes to existing policies may be needed, it is anticipated that such changes will result in only negligible costs, if any, to regulated facilities. Hospitals would need only to add an element to their existing safety planning process.

The Department received $5,930,039.17 for Fiscal Year 2024 through the Federal Child Abuse Prevention and Treatment Act, 42 U.S.C. §§ 5101 et seq., pursuant to the Child Abuse and Neglect State Grant–Part 1 appropriation ($2,798,068.00), CAPTA community-based appropriation ($2,694,385.00), and the Children's Justice Act appropriation ($437,586.17). These rules maintain the Department's compliance with 42 U.S.C. § 5106a(b)(2)(B)(ii) by requiring that health care providers notify the child protective services system of substance-affected infants.

Federal Standards Statement

The proposed amendments, new rules, and repeal would meet, but not exceed, the application requirements set forth by the Child Abuse Prevention and Treatment Act, 42 U.S.C. §§ 5101 et seq., which requires that health care providers must notify child protective services when an infant is born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. CAPTA requirements further mandate that states have systems in place for the facilitation of these reports. The proposed amendments, new rules, and repeal would ensure New Jersey's compliance with this requirement. The proposed amendments will further ensure compliance with CAPTA section 106(b)(2)(B)(iii), which requires the development of a plan to ensure the safety and well-being of a substance-affected infant following release from the care of health care providers.

Jobs Impact

The Division anticipates that the proposed amendments, new rules, and repeal will not have a significant impact on the generation or loss of jobs. Although non-substantial updates to existing procedures and protocols may be required, the impact on staffing at hospitals cannot be accurately estimated, but it is not expected to be significant.

Agriculture Industry Impact

The proposed amendments, new rules, and repeal will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments, new rules, and repeal would impact health care facilities, including hospitals and birthing centers that are licensed pursuant to N.J.A.C. 8:43A-28.7 or 8:43G-2.13. There are no hospitals located in New Jersey with fewer than 100 full-time employees that may be considered small businesses. Birthing centers may be considered small businesses pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. According to the New Jersey Department of Health, at the time of this rulemaking, there are 70 licensed acute care hospitals and seven licensed birth centers in operation in the State of New Jersey. As the proposed amendments, new rules, and repeal impose reporting, recordkeeping, and other compliance requirements on these facilities, a regulatory flexibility analysis is required.

These small businesses are not exempt from these requirements because they are necessary to protect the health, safety, and welfare of infants born substance-affected, and to comply with CAPTA. No capital expenditure is imposed by the proposed amendments, new rules, and repeal, and it is not anticipated that the rulemaking will require hospitals and birthing centers to hire additional professional services. The proposed rules will provide health care providers with the option to choose the notification method, phone or electronic, that is preferable. Furthermore, the notification requires only the submission of de-identified information in response to basic questions. The notification process is designed to be quick and simple and free of administratively burdensome requirements.

Housing Affordability Impact Analysis

The proposed amendments, new rules, and repeal have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments, new rules, and repeal would evoke a change in the average costs associated with housing because the proposed amendments, new rules, and repeal pertain to reporting requirements by health care providers at licensed hospitals and birthing centers to the Division regarding the birth of substance-affected infants.

Smart Growth Development Impact Analysis

The proposed amendments, new rules, and repeal have no impact on smart growth and there is an extreme unlikelihood that the proposed amendments, new rules, and repeal would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers,

pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed amendments, new rules, and repeal pertain to hospitals and birthing centers notifying the Division of the birth of substance affected infants.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 3A:26-1.3.

Full text of the proposed amendments, new rules, and recodification follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. REPORTS OF SUBSTANCE-AFFECTED INFANTS

(**Agency Note:** Existing N.J.A.C. 3A:26-1.1 is proposed for recodification with amendments as N.J.A.C. 3A:26-1.3.)

3A:26-1.1 Purpose and scope

(a) Consistent with the Federal Child Abuse Prevention and Treatment Act (CAPTA), the rules in this chapter are designed to promote a family-focused, preventive, public health approach to support birthing individuals and infants affected by substance use.

(b) In accordance with CAPTA sections 106(b)(2)(B)(ii) and (iii), the purpose of this chapter is to set forth new reporting procedures that comply with CAPTA:

1. Establish two pathways for health care facilities to provide information to the Division following the birth of a substance-affected infant:

i. Through the Department's web-based system, if there are no additional concerns of suspected child abuse or neglect present; and

ii. Through the emergency telephone service maintained by the Division, pursuant to N.J.S.A. 9:6-8.12, known as the Screening Central Registry or SCR; and

2. Allow health care facilities to notify the Division of a substance-affected infant, in accordance with CAPTA section 106(b)(2)(B)(ii), without requiring the child protection system to become directly involved with the family when there are no concerns of child abuse or neglect present.

(c) The rules in this chapter are applicable to the Division and the health care facilities that are licensed by the Department of Health and subject to the rules at N.J.A.C. 8:43A-28.7 and 8:43G-2.13.

3A:26-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Controlled substance" or "controlled dangerous substance" means a drug subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§ 801 et seq., the New Jersey Controlled Dangerous Substances Act, N.J.S.A. 24:21-1 et seq., or the Controlled Dangerous Substances rules, N.J.A.C. 13:45H.

. . .

["Substance-affected infant" means an infant:

1. Whose mother had a positive toxicology screen for a controlled substance or metabolite thereof during pregnancy or at the time of delivery;

2. Who has a positive toxicology screen for a controlled substance after birth that is reasonably attributable to maternal substance use during pregnancy;

3. Who displays the effects of prenatal controlled substance exposure or symptoms of withdrawal resulting from prenatal controlled substance exposure; or

4. Who displays the effects of a fetal alcohol spectrum disorder (FASD).]

"Family care plan" means a written or electronic document that is created in accordance with CAPTA section 106(b)(2)(B)(iii) for the purpose of providing referrals to appropriate services and ensuring the continued safety and well-being of a birthing parent, caregivers, and substance-affected infants following their release from the care of health care facility providers.

"Health care facility" means a:

1. General acute care or special hospital which is licensed by the Department of Health in accordance with N.J.A.C. 8:43G; and

2. Hospital, health care facility, or other health care provider that is separately licensed as a birth center by the Department of Health, pursuant to the licensing rules at N.J.A.C. 3A:43A.

"Health care facility provider" means all health professionals who provide perinatal treatment and care to newborns at a health care facility, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the health care facility.

"Notification" means the submission of written or verbal confidential information by a health care facility provider in respect to a substance-affected infant, where there are no additional concerns of suspected abuse or neglect, to the Division in compliance with CAPTA section 106(b)(2)(B)(ii), 42 U.S.C. §§ 5101 et seq., as amended by the Comprehensive Addiction and Recovery Act (CARA) of 2016, 114 P.L. 198, and any amendments thereto. A notification does not constitute a report of alleged child abuse or neglect. Where there are concerns of suspected abuse or neglect, health care providers are required to report the concerns to the Division, pursuant to N.J.S.A. 9:6-8.10 and the Division will respond, as appropriate, in accordance with N.J.A.C. 3A:10.

"Report" means an account or statement describing a specific incident or set of circumstances of suspected abuse or neglect as defined at N.J.A.C. 3A:10-1.3 and required by N.J.S.A. 9:6-8.10.

"Substance-affected infant" means an infant who, in accordance with any applicable guidance issued by the Department of Health:

1. Is born with confirmed exposure in utero to alcohol or a controlled substance;

2. Displays symptoms of withdrawal resulting from the confirmed exposure in utero to alcohol or a controlled substance; or

3. Is diagnosed with or designated as being at risk of fetal alcohol spectrum disorder (FASD).

For purposes of this subchapter, a presumptive positive result from a toxicology screen, absent confirmation-level toxicology testing, shall not be considered sufficient evidence to classify an infant as a substance-affected infant. For purposes of this subchapter, substance use that results in gestational exposure is not, in and of itself, child abuse or neglect.

"Toxicology confirmation testing" refers to the utilization of advanced analytical techniques, such as Gas Chromatography-Mass Spectrometry (GC-MS) or Liquid Chromatography-Tandem Mass Spectrometry (LC-MS/MS), to detect and quantify specific substances in biological specimens. These methodologies provide precise and highly specific quantitative results, offering significantly greater sensitivity, specificity, and reliability compared to screening methods.

"Toxicology screening" refers to the use of immunoassay techniques to detect the presence or absence of a substance in a biological specimen (for example, urine, serum, or oral fluid). It is a qualitative screen that provides a "positive" or "negative" result. Though rapid, it is inherently limited by relatively low sensitivity and specificity. Additionally, various factors including, but not limited to, specimen pH, analyte concentration, and cross-reactivity with structurally similar compounds may lead to false-positive or false-negative findings. As such, toxicology screening should be regarded as a preliminary test, with confirmatory testing required when clinical or legal decisions are at stake.

3A:26-[1.1]**1.3** [Reports of substance-affected infants] **Notification procedures**

(a) The Division [of Child Protection and Permanency] shall receive [reports of substance-affected infants that ambulatory] **notifications that health** care facilities submit [pursuant to] **in accordance with** N.J.A.C. 8:43A-28.7 and [that hospitals submit pursuant to N.J.A.C.] 8:43G-2.13.

[(b) Upon receipt of a report pursuant to (a) above, the Division shall first determine if the report is an allegation of child abuse or neglect pursuant to N.J.S.A. 9:6-1 et seq., and if a determination that a report is an allegation of child abuse or neglect, respond in accordance with applicable law, including N.J.A.C. 3A:10.

(c) For reports made pursuant to (a) above that are not determined to be allegations of child abuse or neglect, the Division representative shall offer services to the parent of each substance-affected infant on a voluntary basis. If the parent accepts, the Division shall provide the services in accordance with N.J.A.C. 3A:11-1.6(b) and 1.7.]

1. Notifications may be submitted:

i. Through an electronic notification system, accessible at (web address to be provided upon the effective date of this rulemaking); or

ii. By calling the emergency telephone service that the Division maintains pursuant to N.J.S.A. 9:6-8.12, known as Screening Central Registry/SCR.

2. Health care facility providers that submit notifications will be asked to respond to safety questions to determine if concerns of child abuse or neglect are present, and if so, to ensure that the Division responds, if necessary, in accordance with N.J.S.A. 9:6-8.10 and N.J.A.C. 3A:10.

i. If responses to safety questions are submitted through the electronic notification system and safety concerns are identified, an electronic message will direct the health care facility provider to call the Division's emergency number, known as Screening Central Registry/SCR, to complete the notification.

ii. For all notifications that include safety concerns, the SCR worker will both complete the notification and determine whether the safety concern(s) require further investigation for child abuse or neglect. If further investigation is necessary, the Division will initiate a response in accordance with N.J.S.A. 9:6-8.10 and N.J.A.C. 3A:10.

(b) For each notification the Division receives, the Division shall provide the health care facility provider that submits the notification with contact information for the appropriate State-contracted agency that offers voluntary services for the birthing individual, caregivers, family members, and the substance-affected infant.

[(d)] **(c)** [All reports] **Notifications** made pursuant to this chapter shall be considered [child abuse] investigative records and **will be** treated as confidential pursuant to N.J.S.A. 9:6-8.10a.

3A:26-1.4 Content of notifications

(a) Notifications made pursuant to N.J.A.C. 3A:26-1.3(b) shall be completed in a form and manner as dictated by the Department, and shall include the following information:

1. Health care facility;

2. Name of health care facility provider submitting the notification and their contact information;

3. Birthing individual's race, ethnicity, and zip code;

4. Infant's race, ethnicity, and zip code;

5. Controlled substance(s) that the infant was exposed to;

6. Method used to confirm substance exposure;

7. Whether the infant displays symptoms of withdrawal;

8. Whether the infant has a diagnosis or is designated to be at risk of Fetal Alcohol Spectrum Disorder (FASD);

9. Whether a family care plan was completed.

i. If a family care plan was completed, who completed it;

10. Whether the family has a need for additional services, including services for the substance-affected infant, birthing individual, and/or caregivers; and

11. Whether the family was referred for those services.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH AND WILDLIFE

Oysters

Fee; Oyster Resource Development Account

Proposed Amendment: N.J.A.C. 7:25A-1.8

Authorized By: Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-9, 23:3-11, 23:3-12 through 12.2, 23:2B-14, 50:1-1 et seq., 50:2-7 through 50:2-12, and 50:3-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 06-25-07.

Proposal Number: PRN 2025-097.

Submit comments by October 3, 2025, electronically at www.nj.gov/dep/rules/comments. Please note that the online comment page has changed. Comments can be typed directly into the online form, or uploaded as a .pdf, .doc, or .docx file from the comment page.

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Attn: Amanda Parker, Esq.
DEP Docket Number: 06-25-07
Office of Legal Affairs
Department of Environmental Protection
401 East State Street, 7th Floor
Mail Code 401-04L
PO Box 402
Trenton, NJ 08625-0402

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Department proposes to increase the fee for each bushel tag at N.J.A.C. 7:25A-1.8 from $2.00 per bushel tag to $4.00 per bushel tag. The fee of $2.00 was set in 2005. This fee increase is proposed in order to maintain the formerly entitled Oyster Cultch Program, known since 2008 as the Oyster Resource Development program. The fee is paid into the Oyster Resource Development Account (ORDA) pursuant to N.J.S.A. 23:3-12.2 and 50:3-16.14 and 16.15. The fee should be set at a rate that can meet the expense of planting one bushel of shell material or cultch, for every bushel of material that is removed from the State's natural seed beds from harvest activities. Pursuant to N.J.S.A. 23:3-12.2.a, the funds in the ORDA may only be disbursed "… for the enhancement and management of the oyster resource in the Delaware Bay …" and includes the planting of shells. The continuance of the Oyster Resource Development program is a critical component of the State's oyster resource management program and ensures the longevity of the State's natural oyster seed beds located in the Delaware Bay.

The dockside value of a bushel of oysters over the last 20 years has increased from $28.00 to an average of over $50.00 per bushel ex-vessel (meaning once it leaves the harvesting vessel), that is, the amount paid directly to the harvester by the dealer at the time the oyster harvesting boat lands. This proposed fee increase for bushel tags is a nominal increase in operating costs to the harvester. Individual oyster harvesters have, and will benefit from the oyster resource enhancement activities, as the number of oysters have, and will, increase where cultch planting activities occur and are available to oyster harvesters. This adjustment to reflect current costs in conducting the enhancement program will ensure that the cultch planting activities will continue to protect and enhance this valuable and ecologically important resource.