

(a)

**DIVISION OF FISH AND WILDLIFE
 Notice of Administrative Changes
 Marine Fisheries
 Modification of Summer Flounder Recreational
 Season and Black Sea Bass Commercial Trip
 Limits
 N.J.A.C. 7:25-18.1 and 18.12**

Take notice that, pursuant to N.J.A.C. 7:25-18.1(p) and 18.12(o), the Commissioner of the Department of Environmental Protection, with the approval of the New Jersey Marine Fisheries Council (Council) at its March 7, 2013 meeting, has modified the recreational season for summer flounder, and the commercial trip limits for black sea bass. These actions have been taken to comply with the Atlantic States Marine Fisheries Commission (ASMFC) management plans for summer flounder and black sea bass and for the optimal utilization of available quotas while at the same time constraining landings to prevent harvest that exceeds available quotas.

In December 2012, the ASMFC's Summer Flounder, Scup and Black Sea Bass Management Board (Board) met to discuss summer flounder recreational management measures. The Board approved that summer flounder be managed for 2013 under the state-by-state conservation equivalency method which allows states to set their own regulations to reach their state allocated harvest target. New Jersey's recreational summer flounder harvest target for 2013 is 977,998 fish. In order to achieve this target, the Council approved changing the 2013 recreational summer flounder regulations from an open season of May 5 through September 28 to an open season of May 18 through September 16. The ASMFC Board approved New Jersey's recreational summer flounder management changes as compliant with the management plan for summer flounder on February 21, 2013.

At its November 14, 2012 meeting, the Council approved modifying the commercial black sea bass trip limits to optimize the harvest (see February 4, 2013 New Jersey Register at 45 N.J.R. 205(a)). The Mid-Atlantic Fishery Management Council (MAFMC) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup and Black Sea Bass Board (ASMFC Board) then met February 22, 2013 to revisit the 2013 coastwide black sea bass quota due to the recently completed update stock assessment that indicated the coastwide black sea bass stock continued to increase in abundance, is a fully re-built stock, and is not experiencing overfishing. The MAFMC and the ASMFC Board agreed to increase the 2013 coastwide quota by one million pounds.

This increase in the coastwide quota results in nearly an additional 100,000 pounds of commercial black sea bass quota for New Jersey. To take advantage of this additional quota allocation, maximize season length and opportunities for the commercial fishermen while controlling landings to assure that they do not exceed New Jersey's available quota, the Council approved modifying the trip limits while maintaining the number of trips allowed per week for the January 1 through April 15 season and for the April 16 through June 30 season.

The commercial black sea bass trip limits for the season from January 1 through April 15 have changed as follows: instead of a 1,500-pound trip limit one day per week or a 750-pound trip limit two days per week, vessels may land 3,000 pounds one day per week or 1,500 pounds two days per week. The commercial black sea bass trip limits for the season from April 16 through June 30 have changed as follows: instead of a 1,000-pound trip limit one day per week or a 500-pound trip limit two days per week, vessels may land 2,000 pounds one day per week or 1,000 pounds two days per week.

These changes will be reflected in the Division of Fish and Wildlife rules at N.J.A.C. 7:25-18.1(c) and 18.12(h) as indicated below. As required in N.J.A.C. 7:25-18.1(p), changes to N.J.A.C. 7:25-18.1(c) will be published in the New Jersey Register, the New Jersey Fish and Wildlife Digest, and via a news release submitted to individuals on the Division of Fish and Wildlife's outdoor writers mailing list. As required in N.J.A.C. 7:25-18.12(o), changes to N.J.A.C. 7:25-18.12(h) will be published in the New Jersey Register.

Full text of the changed rules follows (additions indicated in boldface **thus**, deletions indicated in brackets [thus]):

7:25-18.1 Size, season and possession limits

(a)-(b) (No change.)

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall measure from the tip of the snout to the tip of the tail (total length), except as noted below:

<u>Species</u>	<u>Minimum Size In Inches</u>	<u>Open Season</u>	<u>Possession Limit</u>
...			
Summer Flounder (Fluke)	17.5	May [5] 18 – Sept. [28] 16	5
...			

1.-4. (No change.)

(d)-(r) (No change.)

7:25-18.12 Commercial fishing seasons, quotas, and trip limits

(a)-(g) (No change.)

(h) The following provisions are applicable to the commercial harvest of black sea bass:

1.-7. (No change.)

8. Annual and seasonal black sea bass quotas and daily trip limits shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service or determined by the Atlantic State Marine Fisheries Commission.

i.-ii. (No change.)

iii. The balance of the New Jersey annual quota for the black sea bass fishery remaining after deducting the by-catch allowance specified in (h)8ii above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily trip limits and number of allowable landing days in each week (Sunday through Saturday) as follows:

(1) January 1 – April 15: 38.8 percent, [750] **1,500** pound trip limit and a maximum of two days per week or [1,500] **3,000** pound trip limit and a maximum of one day per week that a vessel may land black sea bass.

(2) April 16 – June 30: 20.6 percent, [1,000] **2,000** pound trip limit and a maximum of one day per week that a vessel may land black sea bass, or [500] **1,000** pound trip limit and a maximum of two days per week that a vessel may land black sea bass;

(3)-(6) (No change.)

iv.-x. (No change.)

9.-13. (No change.)

(i)-(t) (No change.)

HIGHER EDUCATION

(b)

**SECRETARY OF HIGHER EDUCATION
 Rules and Procedures for Implementation of the
 Higher Education Capital Improvement Fund Act
 Adopted New Rules: N.J.A.C. 9A:12**

Proposed: January 22, 2013 at 45 N.J.R. 89(a).

Adopted: March 25, 2013 by Rochelle Hendricks, Secretary of

Higher Education, Office of the Secretary of Higher Education.

Filed: March 26, 2013 as R.2013 d.071, **without change**.

Authority: N.J.S.A. 18A:72A-1 et seq. and P.L. 2012, c. 42.

Effective Date: May 6, 2013.
Expiration Date: May 6, 2020.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

The adopted new rules do not require a Federal standards analysis under Executive Order No. 27 (1994) because the capital improvement fund was established by New Jersey legislation, debt service on the bonds issued to fund the capital improvement fund is wholly supported by State appropriations, and is not subject to the Federal requirements or standards.

Full text of the adopted new rules follows:

CHAPTER 12

RULES AND PROCEDURES FOR IMPLEMENTATION OF THE HIGHER EDUCATION CAPITAL IMPROVEMENT FUND ACT

SUBCHAPTER 1. GENERAL PROVISIONS

9A:12-1.1 Purpose and authority

This chapter is promulgated by the Secretary of Higher Education to implement the Higher Education Capital Improvement Fund Act, P.L. 1999, c. 217, as amended by P.L. 2012, c. 42. This chapter is adopted in order to provide the mechanism by which eligible institutions may apply for and receive grants from the Higher Education Capital Improvement Fund.

9A:12-1.2 Definitions

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

“Act” means the Higher Education Capital Improvement Fund Act, N.J.S.A. 18A:72A-72 through 80.

“Amending Act” means P.L. 2012, c. 42, the law that amends and supplements the Act.

“Authority” means the New Jersey Educational Facilities Authority or any board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the powers conferred upon the Authority shall be given by law.

“Bond” means a bond or note of the Authority issued pursuant to the authority granted by the Act.

“Capital improvement fund” means the Higher Education Capital Improvement Fund as created by the Act.

“Capital improvement project” or “project” means a project approved by the Secretary for a grant under the Act.

“Construction ready” means the extent to which the planning and design work have been completed and construction is able to begin, and the degree to which a project shall be completed expeditiously once begun. An evaluation of whether a project is construction ready shall include the status of the design work, project site readiness, zoning and permitting approvals, as well as the anticipated timeframe during which the project will be completed, and the pacing of related construction.

“Cost-effectiveness” means the degree to which a project produces a positive economic analysis when considering the construction, operating, and maintenance expenses, compared to the project’s resultant facilities and/or equipment, the life span of the facilities and/or equipment, facility usage and capacity, user productivity, and, where appropriate, such attributes as aesthetics, historic preservation, security, and safety.

“Deferred maintenance” means scheduled or unscheduled maintenance to facilities that was not performed.

“Grant” means a grant of moneys from the capital improvement fund approved by the Secretary for a capital improvement project.

“Grant agreement” means the grant agreement between the institution and the Authority, which sets forth the terms and conditions of the grant, amount of the grant, and disbursement schedule.

“Institution” means a public or private four-year institution of higher education that is eligible to receive State aid.

“Renewal and renovation” means making the changes necessary to address deferred maintenance needs; to meet all State and Federal health,

safety, fire, and building code standards; or to provide a safe and appropriate educational or working environment.

“Secretary” means the Secretary of Higher Education.

“Student support facilities” means student residence halls, student dining facilities, student activity centers, and student health centers.

“Technology infrastructure” means video, voice, and data telecommunications equipment and linkages with a life expectancy of at least 10 years, including transport services and network interconnections, as well as future developments in multimedia equipment and linkages. Only computer software that is part of the operating or data base management systems is considered part of technology infrastructure for the purpose of the Act; application software, for purposes such as word processing, spreadsheets, desktop publishing, and email, does not qualify as technology infrastructure.

9A:12-1.3 Project eligibility

(a) Moneys from the capital improvement fund shall be awarded in the form of grants to New Jersey’s four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure.

(b) Each institution shall use the grants for existing renewal and renovations needs at instructional, laboratory, communication, research, and administrative facilities.

(c) An institution may use up to 20 percent of a grant within student support facilities for renewal and renovation or improvement, expansion, construction, and reconstruction.

(d) Grants funds may be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure if:

1. The institution establishes that all renewal and renovation is completed at instructional, laboratory, communication, research, and administrative facilities or is accounted for through other funding sources;

2. The institution proposes the project for the purpose of maximizing Federal grant recoveries; or

3. The institution proposes to replace a building when the projected renewal and renovation costs exceed the projected cost of replacement.

(e) For a project to be eligible to receive a grant, the institution must:

1. Have an up-to-date long-range facilities plan approved by the institution’s governing board that includes provisions to address deferred maintenance and other capital renewal requirements and pledges to use the capital improvement fund grant to advance that plan;

2. Commit, by resolution of its governing board, to maintaining the capital improvement project funded by the grant;

3. Certify that it will use the funds for renewal or renovation of instructional, laboratory, communication, research, and administrative facilities, or for the alternatives provided in (d) above;

4. Commit to paying one-third of debt service on the bonds issued to fund the capital improvement project if a public institution and one-half of debt service if a private institution.

9A:12-1.4 Grant applications

(a) Following approval by its governing board at a duly authorized meeting, an institution may apply to the Secretary for a grant from the capital improvement fund. The institution’s application shall include the following items:

1. A certification that the eligibility requirements provided in N.J.A.C. 9A:12-1.3 have been met;

2. A complete description of the proposed capital improvement project, including design information, and for renewal and renovation projects, an explanation of modifications to the facilities other than repairs;

3. A copy of the institution’s governing board’s resolution approving the institution’s application and committing the institution to support the annual operating costs of and maintenance requirements for the proposed project;

4. A copy of the institution’s current long-range facilities plan approved by the institution’s governing board that includes provisions to address deferred maintenance and other capital renewal requirements or a

certification that such a plan has already been submitted to the Secretary pursuant to P.L. 2009, c. 90;

5. A description of how the proposed project addresses the institution's long-range facilities plan and meets the estimated need for renewal and renovation;

6. The estimated schedule for completing the project, including cash flow requirements;

7. Cost data for the project, along with identification of all sources of revenue to be used for any costs not funded by the grant;

8. Identification of all sources of revenue to be used for the institution's share of debt service on the bonds issued for the capital improvement project;

9. The useful life of any equipment as determined either by reference to the Internal Revenue Service's Class Life Asset Depreciation Range System set forth in Revenue Procedure 87-56, as amended, supplemented or superseded, or by appraisal of any independent engineering or accounting firm, as appropriate;

10. Certification by the institution that the project will comply with all laws, regulations, codes, statutes, and government guidelines, including the principles of affirmative action and equal employment opportunity, where applicable, as specified in the Act;

11. For applications requesting an exemption by the Secretary of the requirements of N.J.A.C. 9A:12-1.3(a) and (b) for the purpose of maximizing Federal grant recoveries, the application shall explain how the capital improvement project shall maximize such recoveries. The explanation shall include both sources of funds and dollar estimates of the Federal grant fund recoveries that shall be generated by the proposed project;

12. For any improvement, expansion, construction, reconstruction, or technology infrastructure projects proposed as alternatives or additions to renewal and renovation projects, the application shall explain how the institution shall meet its total estimated need for renewal and renovation as contained in its long-range facilities plan. The explanation shall identify specific renewal and renovation projects, their funding sources, and a timetable for their completion;

13. For any building replacement proposed as an alternative to renewing or renovating a specific facility, the application shall include a justification for the replacement, including a comparison of the replacement costs with the costs of renewing or renovating that facility;

14. Any additional information the institution deems necessary to demonstrate how the institution's proposed project meets the objectives identified in N.J.A.C. 9A:12-1.5(b); and

15. Any other information as the Secretary may require on a case-by-case basis and relating to a specific application.

(b) Grant applications shall be submitted in a format provided by the Secretary.

(c) Only grant applications that are complete will be reviewed by the Secretary.

9A:12-1.5 Application review and approval process

(a) The Secretary shall conduct a review of the applications. Such applications will be reviewed based on:

1. The completed application bearing the earliest submission date; or
2. A competitive application process whereby all applications will be submitted by a date certain and will be evaluated to determine which applications are the most qualified to receive funding.

(b) In determining whether an application shall be approved for a grant, the Secretary shall consider the degree to which the proposed capital improvement project supports the following objectives:

1. Advancement of student education in the State of New Jersey;
2. Improvement and expansion of educational opportunities for students;
3. Promotion of academic research excellence, workforce readiness, and the enhancement of the State's academic and economic competitiveness and prosperity by assisting in the production of a highly skilled workforce;
4. Promotion of innovation and improvement in the delivery of higher education;
5. Advancement of study at all levels in science, technology, engineering, and mathematics education;

6. Consistency with the institution's educational mission;

7. Consistency with the institution's long-range facilities plan;

8. The cost-effectiveness of the project;

9. The degree to which the project is construction ready;

10. Consistency of the project with the State's goals and priorities for development and redevelopment, including the promotion of industry clusters, job and business opportunities in areas designated by the State for growth, transportation choice, and efficient mobility of goods and people, and promotion of access to opportunity for all New Jersey residents;

11. Demonstrated commitment over the past 10 years to appropriate maintenance of facilities previously funded by State of New Jersey grant programs; and

12. Whether it serves the best interests of higher education in the State as a whole.

9A:12-1.6 Authorization process

(a) The Secretary shall establish a review committee comprised of representation from the Office of the Secretary of Higher Education, the New Jersey Educational Facilities Authority, the New Jersey Schools Development Authority, the New Jersey Economic Development Authority, and an external advisor with technical expertise to evaluate project grant applications and make recommendations on funding.

(b) The Secretary shall examine the recommendations of the review committee and shall, via a written certification, provide preliminary approval or disapproval of the grant, pursuant to N.J.A.C. 9A:12-1.5(b), and the amount of the grant.

(c) The Secretary shall submit to the Legislature a copy of the grant application and a copy of the written certification preliminarily approving the grant, including the amount approved, with a copy of such material to the Authority. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days of receipt from the Secretary, the grant shall be deemed to be approved by the Legislature and by the Secretary.

(d) Upon authorization of the grant pursuant to (b) above, the institution shall enter into a grant agreement with the Authority, which shall set forth the terms of the grant award and be provided to the board of the Authority for approval by resolution.

(e) Each grant award shall be contingent upon the recipient governing board's entering into a contract or contracts to construct the capital improvement project within one year of the date on which the grant funds are made available. The funds shall be considered available on the date of the Authority's issuance of the bonds to fund the capital improvement project or on the date of the authorization of the grant, whichever is later.

(f) Each recipient of a grant shall provide such information as the Secretary may request regarding the use of the grant and the progress of the project.

(g) The Secretary may reduce, or cancel entirely, the amount of a grant:

1. If an institution determines not to undertake a project for which a grant was awarded;
2. To adjust for actual project expenses in a manner consistent with the approved grant; or
3. If the project is not substantially completed and the grant substantially disbursed six months after the estimated construction completion date set forth in the grant application, as adjusted for any actual delay to the institution entering into a construction contract consistent with (d) above.

(h) No reduction in the grant amount shall be made pursuant to (g)3 above if:

1. Delays are the result of Federal, State, or local government approvals or regulatory requirements not attributable to the institution; or
2. In the sole determination of the Secretary, there are other compelling and documentable reasons.

9A:12-1.7 Payment of principal and interest

(a) Each four-year public institution shall pay the Authority, or the bond trustee if so directed by the Authority, one-third and each four-year private institution shall pay the Authority, or bond trustee if so directed by the Authority, one-half of the amount necessary to pay the principal and interest on the portion of bonds allocated to finance the capital

improvement projects for the institution and in accordance with its lease agreement.

(b) If an institution fails or is unable to pay to the Authority in full, when due, any such obligation of an institution to the Authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or any other appropriation payable to the institution. As used in this subsection, "obligation of an institution" means any amount payable by the institution for the principal and interest on the bonds, notes, or other obligations of the Authority issued to finance projects for the institution under this program. The Authority shall notify the State Treasurer of the amount to be retained to satisfy the obligation of each institution. A copy of such notification shall be submitted to the Secretary.

(a)

**SECRETARY OF HIGHER EDUCATION
Rules and Procedures for Implementation of the
Higher Education Technology Infrastructure Act
Adopted Amendments: N.J.A.C. 9A:13-1.1, 1.2, 1.4,
1.5, 1.6, and 1.7**

Adopted Repeal: N.J.A.C. 9A:13-1.3

Adopted New Rule: N.J.A.C. 9A:13-1.5

Proposed: January 22, 2013 at 45 N.J.R. 92(a).
Adopted: March 25, 2013 by Rochelle Hendricks, Secretary of
Higher Education, Office of the Secretary of Higher Education.
Filed: March 26, 2013 as R.2013 d.072, **without change**.
Authority: N.J.S.A. 18A:72A-59 through 71 and P.L. 1997, c. 238.
Effective Date: May 6, 2013.
Expiration Date: March 31, 2015.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

The adopted new rule, repeal, and amendments do not require a Federal standards analysis under Executive Order No. 27 (1994) because the technology infrastructure fund act was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to the Federal requirements or standards.

Full text of the adopted amendments and new rule follows:

SUBCHAPTER 1. GENERAL PROVISIONS

9A:13-1.1 Purpose and authority

This chapter is promulgated by the Secretary of Higher Education to implement the Higher Education Technology Infrastructure Fund Act, P.L. 1997, c. 238, as amended by P.L. 2012, c. 42.

9A:13-1.2 Definitions

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

"Act" means the Higher Education Technology Infrastructure Act, P.L. 1997, c. 238, as amended by P.L. 2012, c. 42.

"Cost-effectiveness" means the degree to which a project produces a positive economic analysis when considering the construction expenses, operating, and maintenance expenses, compared to the project's resultant facilities and/or equipment, the life span of the facilities and/or equipment, facility usage and capacity, user productivity and, where appropriate, such attributes as aesthetics, historic preservation, security, and safety.

"Grant" means a grant of moneys from the Higher Education Technology Infrastructure Fund approved by the Secretary.

"Matching funds" means funds equal to or greater than a grant from the infrastructure fund, which are allocated by the institution for the specific project for which the grant funds are used, and which are generated from institutional sources, other grants, borrowing through the Authority, or other sources as permitted in the grant approval process. Notwithstanding anything in this definition to the contrary, grants from State government sources may not be used to satisfy the matching requirement in N.J.A.C. 9A:13-1.3(a)6.

"Secretary" means the Secretary of Higher Education.

9A:13-1.3 Funding eligibility

(a) The Secretary shall only approve a grant from the infrastructure fund if the institution:

1. Commits, by resolution of its governing board, to maintaining the technology infrastructure proposed for purchase;
2. Has a long-range facilities plan for technology and uses the infrastructure fund grant to advance that plan;
3. Certifies that it will use the funds to enhance interinstitutional or intrainstitutional connectivity and information technology as it relates to advancing the instructional, research, or service/economic development missions of the institution;
4. Certifies that it will use the funds to advance the institution toward the next level in establishing integrated voice, video, and data networks.
5. Ensures that interinstitutional networking enhancements are compatible with the recommended technology infrastructure for New Jersey higher education;
6. Provides matching funds equal to the amount of the grant requested; and
7. Addresses training, staffing, and other indirect costs related to the proposed use of funds.

9A:13-1.4 Grant application

(a) Following approval by the governing board at a duly authorized meeting, an institution of higher education may apply to the Secretary for a grant from the infrastructure fund. The institution's application shall include the following items:

- 1.-2. (No change.)
3. A summary of the institution's long-range facilities plan for technology and how the proposed project advances that plan;
- 4.-5. (No change.)
6. A description of how interinstitutional networking enhancements are compatible with the technology infrastructure plan for New Jersey higher education originally established;
- 7.-10. (No change.)
11. The useful life of any equipment as determined either by reference to the Internal Revenue Service Class Life Asset Depreciation Range System set forth in Revenue Procedure 87-56, as amended, supplemented, or superseded, or by appraisal of any independent engineering or accounting firm, as appropriate;
12. (No change.)
13. Certification by the institution that the project will comply with all applicable laws, rules, codes, statutes, and government guidelines, including the principles of affirmative action and equal employment opportunity, where applicable, as specified in the Act;
14. Any additional information the institution deems necessary to demonstrate how the institution's proposed infrastructure project meets the objectives identified in N.J.A.C. 9A:13-1.5(b); and
15. Other information as the Secretary may require on a case-by-case basis and relating to a specific application.

(b) Institutions shall not use as matching funds, and grant funds may not be used to reimburse, any expenditures made before the approval of a grant award, except in the discretion and upon approval by the Secretary and provided that the expenditures were made for technology infrastructure and meet the requirements of N.J.A.C. 9A:13-1.3.

(c) The specific acquisitions proposed may be revised as a result of bidding processes, advances in technology, or for other reasons provided that the revisions are consistent with the application approved by the governing board of the affected institution and by the Secretary.