



RESILIENT ENVIRONMENT DEPARTMENT

115 S. Andrews Avenue, Room 329 • Fort Lauderdale, Florida 33301 • 954-357-6612 • FAX 954-357-8655

June 1, 2022

Ms. Krista Shipley
Florida Department of Environmental Protection
2600 Blair Stone Road, MS #235
Tallahassee, Florida 32399

Re: Resilient Florida Rule Making, Rule 62S-8.001

Dear Ms. Shipley,

The Broward County Resilient Environment Department (BCRED) appreciates the opportunity to provide additional comment regarding rulemaking pertaining to the Resilient Florida Grant Program (Rule 62S-8.001).

The attached strikethrough/underline markup of the proposed rule contains our endorsed changes and comments.

Please feel free to contact me at 954-519-1464 or at jjurado@broward.org for any follow-up questions or conversation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer Jurado".

Jennifer Jurado, Ph.D.
Chief Resilience Officer and Deputy Director
Resilient Environment Department

Attachment

CC: Leonard Vialpando, Director, Resilient Environment Department
Marty Cassini, Administrative Manager, Intergovernmental Affairs/Boards Section

1 **CHAPTER 62S-8**
2 **STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN**

3 62S-8.001 Purpose.

4 62S-8.002 Definitions.

5 62S-8.003 Project Scoring Criteria.

6
7 **62S-8.001 Purpose.**

8 The purpose of Chapter 62S-8, F.A.C., is to establish project scoring criteria that, pursuant to Section 380.093, F.S., shall be
9 used in the Department’s evaluation and ranking of implementation project grant proposals submitted for inclusion in the
10 Statewide Flooding and Sea Level Rise Resilience Plan.

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12 Rulemaking Authority 380.093, FS. Law Implemented 380.093 FS. History- New - -2022

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14 **62S-8.002 Definitions.**

15 (1) “Adaptation plan” means a plan that develops goals, priorities, strategies, and actions to best minimize impacts of
16 flooding, sea level rise, or other threats and vulnerabilities, as applicable, and establishes a process to implement those actions.

17 (2) “Compound flooding” is flooding caused by complex interactions between two or more oceanographic, hydrological,
18 or meteorological processes such as the combination of pluvial (rainfall-induced flooding, such as flash, surface water, drain,
19 and sewer floods), fluvial (riverine floods), coastal (sea level rise, tides, waves, storm surge, and nuisance floods), or
20 groundwater flooding.

21 (3) “Comprehensive statewide flood vulnerability and sea level rise assessment” is an assessment to be completed by
22 July 1, 2023, that identifies inland and coastal infrastructure, geographic areas, and communities in Florida that are vulnerable
23 to flooding and sea level rise and the associated risks.

24 (4) “Comprehensive vulnerability assessment” is an evaluation that identifies risks to a community, including flooding
25 and sea level rise, as applicable; meets all the required statutory elements for vulnerability assessments listed in paragraphs
26 380.093(3)(c) through (d), F.S.; and includes, but is not limited to, any supplemental plans, assessments, documents, reports,
27 strategies, maps, or electronic databases that identify or address risks of flooding and sea level rise to critical or regionally
28 significant assets.

Commented [ed1]:

Coastal and/or inland communities probably need to be defined so a community understands the extent of the modeling required for vulnerability assessments. There are local governments that are technically not connected to the coast, but their impacts are exacerbated by tidal flooding and they technically would not understand that from only a rainfall analysis.

One example, AAA language:

At the option of the local government, develop an adaptation action area designation for those low-lying coastal zones that are experiencing coastal flooding due to extreme high tides and storm surge and are vulnerable to the impacts of rising sea level. ...

Criteria for the adaptation action area may include, but need not be limited to, areas for which the land elevations are below, at, or near mean higher high water, which have a hydrologic connection to coastal waters, or which are designated as evacuation zones for storm surge..

29 (5) "Critical asset class" means the distinct groupings of critical assets as defined in subparagraphs 380.093(2)(a)1.
30 through 4., F.S.

31 (6) "Department" means the Florida Department of Environmental Protection.

32 (7) "Eligible entity" means those entities specifically identified in paragraph 380.093(5)(d), F.S., as eligible to submit
33 proposed projects for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan.

34 (8) "Financially disadvantaged small community" is as defined in paragraph 380.093(5)(e), F.S.

35 (9) "Flooding" means a general ~~and~~ or temporary condition of partial or complete inundation of two or more acres of normally
dry land area, ~~or of~~ two or more real properties or parcels containing a majority of normally dry land ~~or the parcel upon which~~
a critical asset is located.

Commented [ed2]: Acknowledge this is a FEMA Definition- but it has no relevance for linear structures including roads or shorelines / seawalls.

35 "High or medium vulnerability" is a condition identified in a comprehensive vulnerability assessment indicating that a
critical asset will be impacted by 2040 or 2070, respectively, from flooding or sea level rise or rainfall-induced flooding as
identified in any applicable scenario outlined in paragraph 380.093(3)(d), F.S. -

36 (10) "Natural system restoration" is a process that creates, improves, or restores ecological functions in the environment.

37 (11) "Nature-based solutions" are actions ~~to protect, restore, and sustainably manage ecosystems, as well as solutions that~~

3837 ~~address socio-environmental challenges using natural resources and processes that rely upon natural processes to protect,~~
~~restore, and sustainably manage ecosystems and the human built environment in ways that increase their resiliency and~~
~~ability to address societal challenges, while also safeguarding biodiversity and improving human wellbeing.~~

3938 (12) "Partial design" means a preliminary design that is ~~between more than 30 to 90~~ percent complete ~~but not yet final~~
and prepared by a qualified

Commented [ed3]: 90% is not partial design

4039 professional in the relevant field, which provides enough information and design criteria to make informed decisions, such as

4140 identifying impacts, benefits, costs, and other challenges with project implementation.

4241 (13) "Project impact area" means the discrete area the project encompasses as well as the delineated area that will be

4342 directly benefitted by a mitigation project (such as a watershed or hydrologic basin for flood mitigation projects, a service or

43 sub-service area for a utility, a neighborhood, a natural area, or a shoreline).

44 Upland damage means impact to an area of land or a critical asset, lying above the level where water flows naturally, in the
area where flooding occurs.

Commented [ed4]: This really needs to be defined. It's a point category and no one knows what it encompasses.

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47 Rulemaking Authority 380.093, FS. Law Implemented 380.093 FS. History- New - -2022

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49 **62S-8.003 Project Scoring Criteria.**

50 (1) All projects eligible for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan by meeting the

51 requirements in subsection 380.093(3), F.S., will be reviewed by the Department. Each eligible project will be allocated points

52 based on the tiered structure outlined in this rule and consistent with paragraph 380.093(5)(h), F.S. The initial points for
each element of the Scoring Criteria for the project will then be provided back to the applicant for review and submittal

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of ~~additional documentation~~. Total points awarded will

determine the project rank. If an applicant fails to demonstrate it meets a specific scoring criteria by failing to satisfy all relevant requirements for that criteria set for in this rule, that criteria will receive a score of zero.

(2) The maximum number of points that may be awarded for Tier 1 criteria is ~~40 points~~.

(a) Up to 10 points will be awarded for the degree to which the project addresses the risks posed by flooding and sea level rise. These points will be allocated in the following manner:

1. Five points will be awarded if the project addresses risks posed by flooding or sea level rise ~~to critical assets either specifically identified in an existing comprehensive vulnerability assessment, or identified in existing vulnerability assessments which do not comply with subsection (3), that shall be submitted to the Department with the proposal, or in the comprehensive statewide flood vulnerability and sea level rise assessment, once available, which the Department is required to develop under paragraph 380.093(4)(b), F.S.; and~~

2. Five points will be awarded if the project addresses risks posed by compound flooding, as identified in a comprehensive vulnerability assessment, ~~or identified in existing vulnerability assessments which do not comply with subsection (3), that shall be submitted to the Department with the proposal, to critical assets specifically identified either in a comprehensive vulnerability assessment or the comprehensive statewide flood vulnerability and sea level rise assessment, once completed.~~

(b) Ten points will be awarded if the project reduces one or more risks to a regionally significant asset, as defined in paragraph 380.093(2)(d), F.S., or if the project adapts a regionally significant asset, as defined in paragraph 380.093(2)(d), F.S., to help avoid such risk. For the purpose of this paragraph, adaptation of a regionally significant asset to avoid risk may include relocation.

(c) Up to 10 points will be awarded for reducing risk located in areas with a higher percentage of critical assets considered to be vulnerable, as described by this paragraph. Points will be allocated in the following manner:

1. Up to six points will be awarded for projects adapting to the anticipated flooding of critical assets in the project impact area, as identified in any applicable scenario outlined in paragraph 380.093(3)(d), F.S., as having ~~medium or high or medium vulnerability~~

in the ~~exposure~~ analysis of a comprehensive vulnerability assessment, which shall be submitted to the Department with the proposal. Higher frequency storm events analyzed that are beyond the requirements of paragraph 380.093(3)(d), F.S., shall not

be used to establish the percentages in these criteria. ~~The proposal must include a detailed narrative overview describing the methodology used to determine the percentage calculations in this subsection. The percentage calculations in subsections a. and b. below shall be established utilizing the following parameters and shall be considered single critical assets within the relevant critical asset class: structures, buildings, parcel-specific facilities, including parking areas; a uniform section of road~~

Commented [ed5]: Similar to process in Coastal program.

Commented [ed6]: There is no statutory authority to limit 1.a to critical assets. This section only addresses the identification in the vulnerability assessment.

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:
a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

Commented [ed7]: Need to define this.

Commented [ed8]: This should just generically be "analysis" not exposure or sensitivity.

Commented [ed9]: How are the percentages established? This is an ongoing question. Without standards here, the methodology to establish these percentages will be very different across VAs. There really needs to be a standard methodology for this in the project proposals so that it is interpreted uniformly. And it needs to flow through the other sections for consistency.

with distinct starting and ending points; a natural/conservation area or wetland as identified on a land use or conservation map or a resource delineation as a single unit; and a shoreline with relatively homogenous physical characteristics and sediment types bounded by different geological or manmade characteristics. Any critical assets not included within these parameters shall be described in the methodology used to determine the percentage calculations within the project proposal. The calculation shall include the sum of critical assets identified as high or medium vulnerability divided by the sum of all critical assets within the project impact area.

77 a. For projects adapting ~~flooding of~~ critical assets to the impacts of flooding identified in a comprehensive vulnerability assessment, points will be

78 allocated in the following manner:

79 (I) Zero points will be awarded if no critical assets within the project impact area are identified as ~~medium or high~~ or medium

80 vulnerability;

81 (II) Two points will be awarded if at least one critical asset but less than twenty-five percent (25%) of total critical assets
82 within the project impact area are identified as ~~medium or high~~ or medium vulnerability;

83 (III) Four points will be awarded if twenty-five percent (25%) or more, but less than fifty percent (50%), of total critical
84 assets within the project impact area are identified as ~~medium or high~~ or medium vulnerability; or

85 (IV) Six points will be awarded if fifty percent (50%) or more of total critical assets within the project impact area are
86 identified as ~~medium or high~~ or medium vulnerability.

87 b. Prior to August 31, 2024, in lieu of the requirements of sub-subparagraph (c)1.a. above, applicants without a
88 comprehensive vulnerability assessment shall receive points based on critical assets in the project impact area at risk of flooding
89 based on an assessment, report, evaluation, or other documentation of risk that addresses flooding or sea level rise in the project
90 impact area. The documentation used to support this criterion shall be submitted with the proposal. The calculation of the
number of critical assets shall be consistent with subparagraph (c)1.

9091 Points will be allocated in

9192 the following manner:

9293 (I) Zero points will be awarded if no critical assets within the project impact area are at risk of flooding based on best
9394 available data;

9495 (II) Two points will be awarded if at least one critical asset but less than twenty-five percent (25%) of total critical assets
9596 within the project impact area are at risk of flooding based on best available data;

9697 (III) Four points will be awarded if twenty-five percent (25%) or more, but less than fifty percent (50%), of total critical
9798 assets within the project impact area are at risk of flooding based on best available data; or

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~~9899~~ (IV) Six points will be awarded if fifty percent (50%) or more of total critical assets within the project impact area are at ~~99100~~ risk of flooding based on best available data.

~~400101~~ 2. A maximum of four points will be awarded for the total number of critical assets served by the project as demonstrated ~~404102~~ by the proposal. For the purpose of this paragraph, a critical asset is “served” when a project eliminates or alleviates a current ~~402103~~ or future risk of adverse impacts from flooding or erosion as demonstrated by a comprehensive vulnerability assessment, if ~~403104~~ available, or the proposal. The calculation of the number of critical assets shall be consistent with subparagraph (c)1.

~~404105~~ a. One point will be awarded if one critical asset is served;

~~405106~~ b. Two points will be awarded if two critical assets are served; or

~~406107~~ c. Four points will be awarded if three or more critical assets are served.

~~407108~~ (d) Up to 10 points will be awarded for contributing to existing flood mitigation projects that reduce upland flood damage ~~408109~~ costs in one of the ways identified below. Points will be allocated in the following manner:

~~409110~~ 1. Six points will be awarded if the project contributes by incorporating new or enhanced structures;

~~410111~~ 2. Six points will be awarded if the project contributes by incorporating natural system restoration and revegetation; or

~~411112~~ 3. 10 points will be awarded if the project contributes by incorporating both new or enhanced structures and natural system ~~412113~~ restoration or revegetation.

~~413114~~ (3) The maximum number of points that may be awarded for Tier 2 criteria is 30 points.

~~414115~~ (a) Up to 7.5 points will be awarded based on the degree to which flooding and erosion currently affect the condition of ~~415116~~ the project impact area. Justification for methods used to estimate or determine extent and frequency of flooding or erosion ~~416117~~ must be provided. Points will be allocated in the following manner:

~~417118~~ 1. Up to 3.75 points will be awarded based on the current frequency of flooding or erosion in the project impact area. Points ~~418119~~ will be allocated in the following manner:

~~419120~~ a. Zero points will be awarded if the proposal does not demonstrate the current frequency of flooding or erosion in the ~~420121~~ project impact area;

~~421122~~ b. Two points will be awarded if the proposal describes how the project impact area has experienced flooding or erosion ~~422123~~ in the last three years; or

~~423124~~ c. A total of 3.75 points will be awarded if the applicant provides documentation to the Department showing the project ~~424125~~ impact area has been flooded more than three times within the last five years or is experiencing ongoing erosion. Documentation ~~425126~~ may include, but is not limited to, reports of flooding or erosion recorded by the jurisdiction(s) in which the project impact area ~~426127~~ is located, local news reports or source(s), documentation by a local official such as recorded high-water marks or inspection ~~427128~~ results, or any other similar document or report.

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~~128~~129 2. Up to 3.75 points will be awarded based on the severity of flooding or erosion in the project impact area. Points will be
~~129~~130 allocated in the following manner:

~~130~~131 a. Zero points will be awarded if the proposal does not demonstrate the current extent of flooding or erosion in the project
~~131~~132 impact area;

~~132~~133 b. Two points will be awarded if the proposal describes how the project impact area experienced flooding estimated greater
~~133~~134 than 3 inches in the last three years under conditions for the designed level of service for the relevant return frequency rainfall
event, or as a result of tidal flooding consistent with documented tidal measurements at the most proximate National Oceanic and
Atmospheric Administration tide gauge to the project impact area or is currently experiencing unmitigated erosion; or

~~134~~135 c. A total of 3.75 points will be awarded if the applicant provides documentation to the Department showing the project
~~135~~136 impact area has been flooded to an estimated depth greater than one foot within the last five years, has been estimated to be
~~136~~137 inundated more than three inches but less than one foot at least one time in the current and in each of the most recent three
~~137~~138 calendar years, has had at least one instance of sustained flooding for a duration of seven or more consecutive days, or is
~~138~~139 experiencing erosion that the applicant demonstrates is critical erosion for the critical asset class. Flooding depths shall be
demonstrated according to the methods contained within subparagraph (a)2.b. Documentation may also include,

~~139~~140 but is not limited to, reports of flooding or erosion recorded by the jurisdiction(s) in which the project impact area is located,
~~140~~141 local news reports or source(s), documentation by a local official such as recorded high-water marks or inspection results, or
~~141~~142 any other similar document or report.

~~142~~143 (b) Up to 7.5 points will be awarded for readiness of the project to proceed in a timely manner, as defined by subparagraphs
143 62S-8.003(3)(b)1. through 3., F.A.C., below.

144 1. Up to 3.75 points will be awarded based on the status of project design. Points will be allocated in the following manner:

145 a. Zero points will be awarded if no design documentation is provided;

146 b. One point will be awarded if a partial design or other site-specific environmental or geotechnical report that demonstrates
147 the furtherance of a readiness to proceed is submitted; or

148 c. 3.75 points will be awarded if final drawings or plans that are properly certified (e.g., engineer's certification, _____
signed and

149 sealed by registered professional, etc.) by a professional in the relevant field are submitted.

150 2. Up to 2.75 points will be awarded based on the project's permitting status and the status of any needed easement or land
interests. Points

151 will be allocated in the following manner:

152 a. One point will be awarded for providing a list of all permits and easements necessary for completion of the project, if
153 applicable;

154 b. A total of 1.5 points will be awarded if proof of application for necessary permits or approval from at least one authority

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155 having legal jurisdiction over such permitting is submitted with the proposed project; or
156 c. A total of 2.75 points will be awarded if all necessary permit(s) and easement(s) or other land interests necessary for
project implementation have been authorized or obtained or if
157 permitting or easement(s) or other land interests necessary for project implementation are not required.

158 3. One point will be awarded if local funding sources are committed as cost share, as demonstrated by relevant
159 documentation including, but not limited to, an approved and adopted capital improvement plan, a signed letter from the Chief
160 Executive Officer (or equivalent) of the eligible entity, a draft resolution or agenda item to be presented to the governing board
161 committing funding to the project if selected, or any other comparable document showing availability of funds. One point will
162 be awarded to financially disadvantaged small communities.

163 (c) Up to 7.5 points will be awarded for environmental habitat enhancement or nature-based solutions for resilience.

164 1. A total of 3.75 points will be awarded if the project enhances environmental habitat or includes nature-based solutions;
165 and

166 2. A total of 3.75 points will be awarded if the project impact area extends into an area that is identified as a state or federal
167 critical habitat for threatened or endangered species at the time the applicant submits its proposal to the Department.

168 (d) A total of 7.5 points will be awarded if a statement is provided to the Department with the proposal that demonstrates
169 the project is cost-effective. The basis for cost effectiveness shall be provided by the applicant. A statement demonstrating cost-
170 effectiveness provided for this criterion must address one or more of the following:

171 1. A comparison of contingencies and the estimated total project cost;
172 2. Costs of alternative approaches or explanation of why there are no feasible alternative approaches;
173 3. Avoided economic loss due to failure or inability to operate due to flooding or sea level rise, the project costs compared
174 to costs to repair damage from flooding or erosion, or other reasonably foreseeable losses using industry standard economic
175 models; and

176 4. Future costs and benefits calculated using the relevant discount rate, net present value, or other metrics measuring future
177 costs and benefits to support the proposal.

178 (4) The maximum number of points that may be awarded for Tier 3 criteria is 20 points.

179 (a) Up to 6.5 points will be awarded for available local, state, or federal cost share. Points will be allocated in the following
180 manner:

181 1. Zero points will be awarded if the proposal does not demonstrate that a source for the required 50% cost share has been
182 specifically identified unless the community is a financially disadvantaged small community; or

183 2. A total of 3.25 points will be awarded if the project proposal includes specifically identified local, state, or federal cost

Commented [ed10]: Acknowledge statutory reference to easements, but other land interests is necessary to implement a project. That's really what you are trying to get at here: do you have all the proper authorizations and / or entitlements to implement the project?

184 share, but the funds have not been appropriated or released at the time the applicant submits its proposal to the Department; or

185 3. A total of 6.5 points will be awarded if the project proposal provides documentation that 50% cost share is available or
186 if the community is a financially disadvantaged small community. Available cost share can be demonstrated by providing an
187 approved and adopted capital improvement plan, a letter from the Chief Executive Officer (or equivalent) of the eligible entity
188 committing funding, a resolution from the governing board committing funding to the project if selected, or any other
189 comparable document showing availability of funds.

190 (b) A total of 6.5 points will be awarded if verification of state funding previously awarded to the project is provided to
191 the Department with the proposal. Verification must include previously funded phases, amount of prior state funding, and
192 previous partial appropriations, and must be submitted in a format that is verifiable by the participating agency. Points will be
193 allocated in the following manner:

194 1. One point will be awarded if the applicant provides verification of previous state funding awarded for preconstruction
195 activities, as defined in paragraph 380.093(2)(c), F.S., except for those preconstruction activities involving the design of or
196 permitting for the project;

197 2. 1.5 points will be awarded if the applicant provides verification of previous state funding awarded for design of the
198 project;

199 3. 1.5 points will be awarded if the applicant provides verification of previous state funding awarded for permitting for the
200 project; and

201 4. 2.5 points will be awarded if the applicant provides verification of state funding awarded for earlier phases of the
202 project's total construction.

203 (c) Up to seven points will be awarded for any exceedance of the flood-resistant requirements in the Florida Building
204 Codes Act, as adopted by the State of Florida pursuant to Part IV, Chapter 553, F.S., and administered by the Florida Department
205 of Business and Professional Regulation as the Florida Building Code, or local floodplain management regulations, whichever
206 is more restrictive.

207 1. A total of 3.5 points will be awarded if the project will exceed Florida Building Code flood-resistant requirements or
208 local floodplain management regulations, ~~whichever is more restrictive,~~ and the proposal outlines the specific requirements and
209 details relating to how the design exceeds the criteria;

210 2. Seven points will be awarded if the project will exceed Florida Building Code ~~flood-resistant~~ requirements
and local floodplain

211 management regulations, ~~or meets a higher future conditions standard as established by the local government,~~ so long as the
212 proposal references the specific requirements and design criteria to be exceeded in its

212 project proposal; or

Commented [ed11]: This is not in Section 380.093, F.S.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

Commented [JJ12]: Some local governments have adopted future conditions standards that are now integrated in local regulations. These standards should not have to be exceeded in order to be awarded the full 7 pts.

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213 3. Seven points will be awarded if the proposal states that no Florida Building Code flood-resistant requirements or local
214 floodplain management regulations apply to the project.

215 (5) The maximum number of points that may be awarded for Tier 4 criteria is 10 points.

216 (a) Five points will be awarded if the Department determines that the project proposal includes innovative technologies
217 designed to reduce project costs and provide regional collaboration. The proposal must demonstrate which specific technologies
218 will be used and explain why they are innovative as well as how they will reduce cost and provide regional collaboration; and

219 (b) Five points will be awarded if the proposal demonstrates that the critical asset or the project impact area is located in a
220 financially disadvantaged community.

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222 Rulemaking Authority 380.093, FS. Law Implemented 380.093 FS. History- New - -2022

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