



Florida Keys Aqueduct Authority

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Krista Shipley
Planning Consultant
Florida Department of Environmental Protection
Office of Resilience and Protection
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RE: Comments on 62S-8 Statewide Flooding and Sea Level Rise Resilience Plan

Dear Ms. Shipley,

The Authority appreciates the opportunity to provide comments on the draft rules for Chapter 62S-8, Statewide Flooding and Sea Level Rise Resilience Plan. The Florida Keys Aqueduct Authority is the sole provider of potable water to the Florida Keys and the wastewater provider to a portion of the Florida Keys. The Authority is a regionally significant asset that directly serves hundreds of other regionally significant assets. As such, the impacts to the Authority can have a tremendous exponential effect on the community. This includes utilizing potable water to expediate hurricane recovery and the associated economic impacts. It also includes protecting the health and safety of residents by providing potable water for sanitation and providing for the sick and injured.

The Authority appreciates the extensive work the Florida Department of Environmental Protection (Department) has put forth in creating the draft rule. The Authority would like to take this opportunity to address several sections of the rule that we believe, as written, do not fully address the Intent of F.S. 380.093.

Section 380.093 (1)(a) F.S. states that the state is particularly vulnerable to adverse impacts from flooding and that *“such adverse impacts pose economic, social and environmental and public health and safety challenges to this state. To most effectively address these challenges, funding should be allocated in a manner that prioritizes addressing the most significant risks.”*

The Authority believes that modifying the following items and associated scoring criteria will more fully address the legislature’s intent.

I. 62S-8.003(2)(a)(1) and 62S-8.003(2)(a)(2)

These two sections of the draft rule require that projects will only be eligible for points in these categories if the project is specifically identified in a comprehensive vulnerability assessment (VA) that shall be submitted to the Department with the proposal.

The Authority is the regional water utility for the Florida Keys, which includes Monroe County and the City of Key West, Village of Islamorada, City of Marathon and City of Layton. The VA as defined in 380.093(3)(c) through (d), F.S., requires an assessment of the entire county or municipality and states that it should include all critical assets owned by the grant applicant.

The Authority does not have the ability to comply with this requirement, nor would it be feasible. The Authority is further disadvantaged since the legislature and the Department allow for and provide grant funding to counties, cities and regional resilience entities to develop VAs, but funding is not provided for independent regionally significant critical assets such as the Authority. The potential loss of 10 points in the ranking process would be devastating to extremely critical projects. As such, the Authority is proposing an alternative submittal for such circumstances.

Recommended Modification

When an entity cannot comply with the defined VA requirement and is put at an additional disadvantage by not being eligible for funding to create a VA, language could be inserted that allows points to be awarded if the proposed flooding/sea-level project is included in the Local Mitigation Strategy (LMS) Priority List for the jurisdiction. The LMS Priority List is set by the LMS Working Group, a coalition of representatives who work together to identify risks and set priorities for addressing these risks. The Coalition includes the County, municipalities, utilities and others within the jurisdiction. This would demonstrate that the project has been identified as a vulnerability in the region.

Language modification proposed for consideration: 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 that shall be submitted to the Department with the proposal, [or in the jurisdictional Local Mitigation Strategy Plan Priority List, should the applicant be an independent entity \(Not a County, City or Regional Resilience Entity\) where completing the defined vulnerability assessment is not feasible and the applicant is not eligible for VA funding, 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.;](#)

This verbiage would be utilized in both 62S-8.003(2)(a)(1) and 62S-8.003(2)(a)(2)

While the Authority understands the Department's position that it should work with the County and municipalities, and is endeavoring to do so, the Authority and other similarly situated utilities should not be penalized for being unable to comply with the regulations as written. Doing so would significantly hamper the Authority's ability to competitively seek funding for critical infrastructure that also serves additional critical infrastructure and mitigates adverse impacts to economic, social, environmental and public health and safety in this state.

II. 62S-8.003(2)(c)(1) Addressing medium or high vulnerability verbiage

To be consistent with Section I, listed above, verbiage should be modified to account for the fact that some entities, for reasons provided in Section I, will not have a defined vulnerability assessment. Therefore, the Authority is recommending modifying text to be more inclusive. As written, the Authority and other similarly situated utilities would be at a significant disadvantage by not be eligible to acquire these six points, through no fault of their own.

Recommended Modification

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 vulnerability in the exposure analysis of a comprehensive vulnerability assessment [or being listed in the jurisdiction's Local Mitigation Strategy Plan Priority List](#), 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.

It would be recommended the added verbiage be placed in all sections of the draft rule that reference medium or high vulnerability.

III. 62S-8.003(2)(c) – Impacts to Total Critical Assets

As written, the draft rule only considers the mitigation of impacts being directly affected by the proposed infrastructure. The Authority believes that the mitigation achieved by the indirect impacts, (ex. providing water to hospitals and health care facilities) may be far greater than the physical flood protection of another structure.

Recommended Modification

The Authority would like to see indirect mitigation for critical health and safety assets included in the scoring criteria, as part of this section of in an additional section.

IV. 62S-8.002(9) Definitions

This section defines flooding as *“a general and 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.”*

There is a significant amount of underground critical infrastructure in the state. The Authority’s water and wastewater collection and distribution systems are prime examples. The average elevation in the Keys is approximately three feet above sea level. As sea level rises, we are seeing severe impacts to both systems. These effects include both inflow and infiltration in the wastewater system, just below grade, where sea-level rise was not initially anticipated, due to the corrosive effects from the increase in elevation of subterranean tidal waters due to sea-level rise. Subterranean impacts become even more important when considering saltwater intrusion in a drinking water aquifer. The Authority wants to ensure that flooding of previously dry subterranean lands is considered in this definition. The Department may also want to consider addressing saltwater intrusion in freshwater aquifers.

While, as written, we believe the language can be interpreted to include subterranean flooding, the Authority believes more inclusive language would remove any ambiguity.

Also, the Authority infrastructure is located in the right-of-way and, although extensive, may not be considered two or more properties.

Language modification Proposed for Consideration:

“Flooding” means a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area, above or below existing grade, or of two or more real properties or parcels, or right-of-way, containing a majority of normally dry land.

V. Including and Prioritizing Health and Safety

The current draft of the rule does a good job of considering economic adverse impacts as stated in the legislation but does not address the other components spelled out by the legislation, including public health and safety. There is no mention of health in safety in the proposed rule. While critical facilities are specified in the legislation [380.093(5)(d), F.S.] it seems to be appropriate that critical facilities, such as potable water systems and other critical health facilities are given more weight, when compared to colleges, community centers, or

general state government facilities, which are all included in the definition. While all are important facilities the potential health and safety impacts are not equal.

Recommended Modification

The Authority would propose adding a section to the scoring criteria that provides points for projects where considerable health and safety benefits can be achieved.

VI. Federal Emergency Management Agency Special Flood Hazard Area (SFHA)

The previous rule modification removed references to SFHAs. As a recognized scientific model of determining areas vulnerable to flooding, the Authority believes that the SFHAs are clearly vulnerable and using this criterion provides a valid method for determining vulnerability to flooding. Even if the Department does not wish to exclude facilities outside of these areas, it is a useful standard to indicate vulnerability.

Recommended Modification

Reinstate the references to SFHAs or utilize SFHAs as a factor to consider in determining vulnerability.

We appreciate the tremendous efforts the Department has made to date and appreciate this opportunity to provide these comments.

Sincerely,

Kerry G Shelby

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Kerry G. Shelby
Executive Director