

**PROPOSED RULE - FEDERAL CONSISTENCY REGULATIONS 15 CFR PART 930**  
**68 FEDERAL REGISTER, JUNE 11, 2003, PAGE 34851**  
**DOCKET NO. 030604145-3145-01**

**TEXAS GENERAL LAND OFFICE COMMENTS**

**August 25, 2003**

*General Comments:*

The majority of the changes proposed by NOAA will not significantly impact Texas' Coastal Management Program (CMP). However, comments are provided below to specifically address proposed changes concerning the timing of state agency consistency reviews.

Although Federal Consistency Review regulations allow states 60-days to review federal agency actions and activities, the Texas CMP requires that virtually all consistency reviews be completed within 45 days. It is anticipated that, with minor clarification, the proposed 14-day notification to the federal agency that the 60-day review has not begun due to insufficient information will not impede Texas' review process.

**Rule Change 7 – § 930.41(a) State agency response**

This rule change requires that within 14 days of receiving the consistency determination and supporting information the state agency notify the federal agency in writing that the 60-day review period has not begun due to insufficient information. The notice must identify missing information, and indicate that the 60-day review period will begin when the missing information is received by the state agency. Otherwise, the 60-day review period will begin. In many cases, the requirement that states notify the agency of missing information will not pose a problem. It is in both the agency and the state's interest that the consistency determination and supporting information be as complete as possible to assure expeditious and qualitative review. However, the final rule should clarify that failure of a state to notify the agency of missing information within 14 days shall not prevent the state from subsequently seeking necessary information and/or objecting to a consistency determination for lack of adequate information.

In addition, NOAA should ensure that the requirements of §930.39(a) are clear enough to provide a complete project description adequate for state review purposes, as well as the information requirements of the applicants, agencies, and states. NOAA should clarify the relationship between this section and other sections of the regulations that provide information requirements (i.e., §930.58 - necessary data and information, and §930.60 -commencement of state agency review).

***Rule Change 12 – §930.60 Commencement of State Agency Review***

Current regulations require applicants to provide information deemed necessary for the review to begin, while the proposed revisions provide only that the requested information be received by the state. It is important that states have the opportunity to review and analyze the adequacy of the information provided, and assist the applicant in providing additional information for the review.