

information problems (such as lack of NEPA documents) do occur, they can be resolved using the procedures available under 15 CFR 930.60, adopted when the Federal Consistency regulations were updated in 1990, which clarified when the consistency time clock may begin. If OCRM does revise the information requirements aspect of the regulations, California stated it would not oppose language analogous to that of § 930.37 being placed in subparts D and E of the regulations.

*NOAA Response to Comment 1.* NOAA's regulations at 15 CFR 930.58 and 930.76, and MMS' regulations already provide "national standards" for information needs for OCS oil and gas plans. NOAA's regulations also provide the mechanism for addressing individual State information needs, both through each State's enforceable policies which are approved by NOAA and the "necessary data and information" specifically identified in a State's federally approved management program, pursuant to 15 CFR 930.58(a)(2). Section 930.76(b) and includes the information requirements of § 930.58.

These information requirements provide adequate guidance for most projects. Issues have been raised regarding OCS oil and gas projects and whether MMS and NOAA regulations provide enough detail about the information needed or whether additional information should be described in the regulations. In addressing these issues, NOAA recognizes that information required for MMS' purposes may not be sufficient for State CZMA purposes. Thus, NOAA is not proposing to eliminate 15 CFR 930.58(a)(2), but, rather encourages States to make better use of the section so that State information needs will be known before CZMA review begins and the applicant and Federal agency will be able to plan for the State information needs when developing the project. NOAA has proposed various improvements to increase clarity and efficiency to the Federal Consistency regulations concerning information needs.

NOAA agrees that States and Federal agencies should have flexibility to coordinate NEPA information issues.

*Comment 2.* MMS' comprehensive Notice to Lessees for the Gulf of Mexico addresses many of the same issues as NOAA's proposed rule-making and can be used as a model for those States and regions outside the Gulf region, precluding the need for NOAA to further revise the regulations on these issues.

*NOAA Response to Comment 2.* Neither the current nor the proposed regulations would prohibit State-Federal memoranda of understanding on information needs, such as the recent effort by MMS and the Gulf States. NOAA will continue to encourage such agreements.

*Comment 3.* For Virginia's Chesapeake Bay Preservation Act Program, the State would like detailed maps showing (1) the layout of proposed on shore facilities and other elements of the project (*i.e.*, transmission lines, reservoirs, borrow areas, waste disposal locations, etc.); and (2) delineation of Chesapeake Bay Preservation Areas on the properties under study.

*NOAA Response to Comment 3.* The State could amend its management program to describe the information as being "necessary data and information," pursuant to 15 CFR 930.58(a)(2) and (c), and thus required of the applicant. If States include detailed information requirements in their management programs pursuant to § 930.58(a)(2), then problems associated with unpredictable State requests for additional information will dissipate.

*Comment 4.* States are allowed to request additional data and information during the CZMA process even though they may have already received this information, through MMS, in the documents prepared and submitted to the federal permitting authority by a company. Since MMS has very thorough environmental review regulations, information generated for this process should be honored by the States and not requested anew. States should work with the federal permitting agency and MMS to identify what information is necessary at the beginning of the OCSLA and CZMA processes.

*NOAA Response to Comment 4.* All parties should identify information needs as early as possible. This should occur before CZMA review begins. There should not be a need to develop information in addition to that required by MMS regulations and 15 CFR 930.58 and 930.76(b) once the CZMA review begins, except in limited, unforeseen circumstances and/or where issues regarding the substantive adequacy or completeness of the information submitted have arisen. Once the CZMA review begins, coastal States need to allow sufficient time for industry or MMS to respond to any requests for additional information. Thus, NOAA proposes to clarify information needs and, for OCS plans, proposes a cut off date at the three month period after which no additional information can be requested by a State.

*Comment 5.* A better description of the scope and nature of information will be beneficial. Preparation of a list of the specific information that is required to complete the CZMA process for energy projects is encouraged. The applicants should have access to these lists of informational needs when they are preparing the necessary applications. This approach would assure that all the players understand the type and extent of the information that must be submitted prior to the submission of any application. The information requirements should be keyed to the approved coastal management plan and enforceable policies of the plan. By ensuring that the information requests are firmly grounded in the approved plan, NOAA can encourage States to keep their plans current.

*NOAA Response to Comment 5.* NOAA agrees that one reason for information uncertainty is that some States do not list information needs pursuant to 15 CFR 930.58(a)(2). Another reason for uncertainty is that many States have not kept their management programs up to date by submitting program changes to NOAA. NOAA has begun to address this issue with the States. In addition, NOAA is looking for ways to facilitate the process to update State programs, which is primarily a resource issue for both the States and NOAA.

*Comment 6.* NOAA's regulation at 15 CFR 930.58(a)(1) includes: "comprehensive data and information sufficient to support the applicant's consistency certification." This language is too broad and has been used as a basis for continual requests by States for additional information. Information required by MMS regulations should be adequate for the States to determine consistency. Unreasonable requests for more information result in substantial costs and delays, create differing requirements among the States and this unpredictability has a dampening effect on OCS energy projects.

*NOAA Response to Comment 6.* NOAA agrees that the language in § 930.58(a)(1) which says "and comprehensive data and information sufficient to support the applicant's consistency certification" is not needed since the section describes the information needed and § 930.58(a)(2) allows the State to describe any necessary information in addition to that required by NOAA regulations. The language proposed to be removed is ambiguous and could create uncertainty in the determination of when the six-month review period starts. NOAA proposes to remove this clause from