

Leasing Process

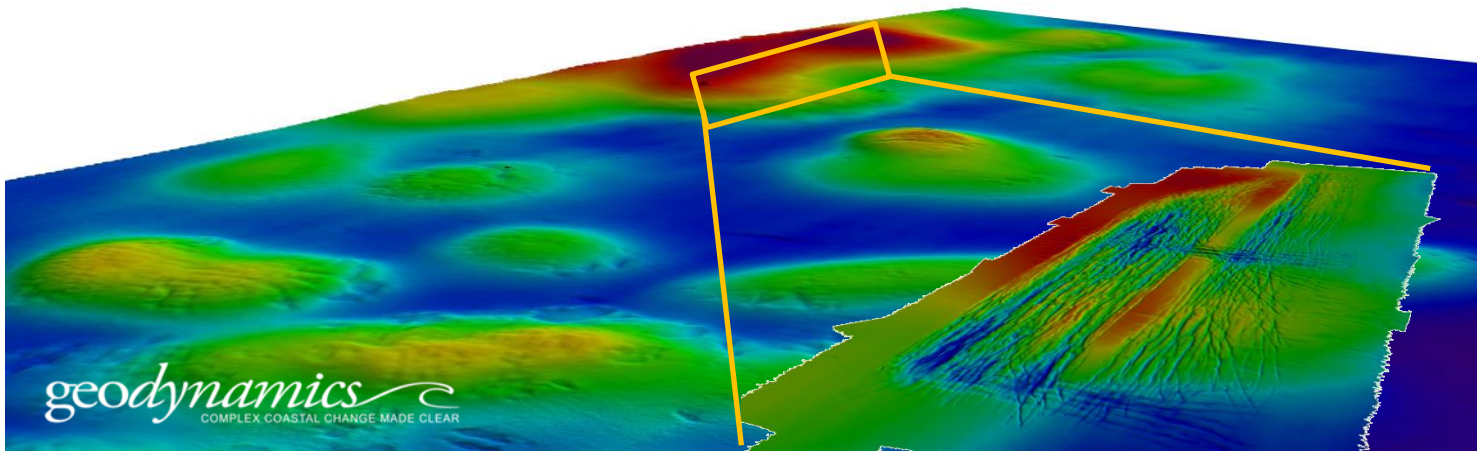


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NROC Sand Subcommittee
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- BOEM's authority under Outer Continental Shelf Lands Act (OSCLA)
- Negotiated Non-Competitive Leasing Process



Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331, et. seq.)

Public Law 103-426 (43 U.S.C. 1337(k)(2)) (1994): Amended OCSLA to allow BOEM to negotiate, on a noncompetitive basis the rights to OCS sand, gravel, or shell resources for (1) beach nourishment, shore protection, wetlands restoration projects, or (2) use in construction projects authorized or funded by the Federal Government

A 1999 Amendment: Prohibits BOEM from charging Federal, state, and local governments a fee for OCS sand



3 Types of Negotiated Non-Competitive Agreements (NNAs) Are Used to Convey Sand and Gravel

- **2-Party Memorandum of Agreement (MOA)**
 - An Agreement negotiated between Another Federal Agency and BOEM
- **3-Party MOA**
 - An Agreement negotiated between a Locality (State, county, city, parish etc.), Another Federal Agency (typically USACE) and BOEM. USACE Civil Works.
- **2-Party Lease**
 - An Agreement negotiated between a Locality (State, county, city, parish etc.) and BOEM. USACE Regulatory involvement (e.g., CWA 404).

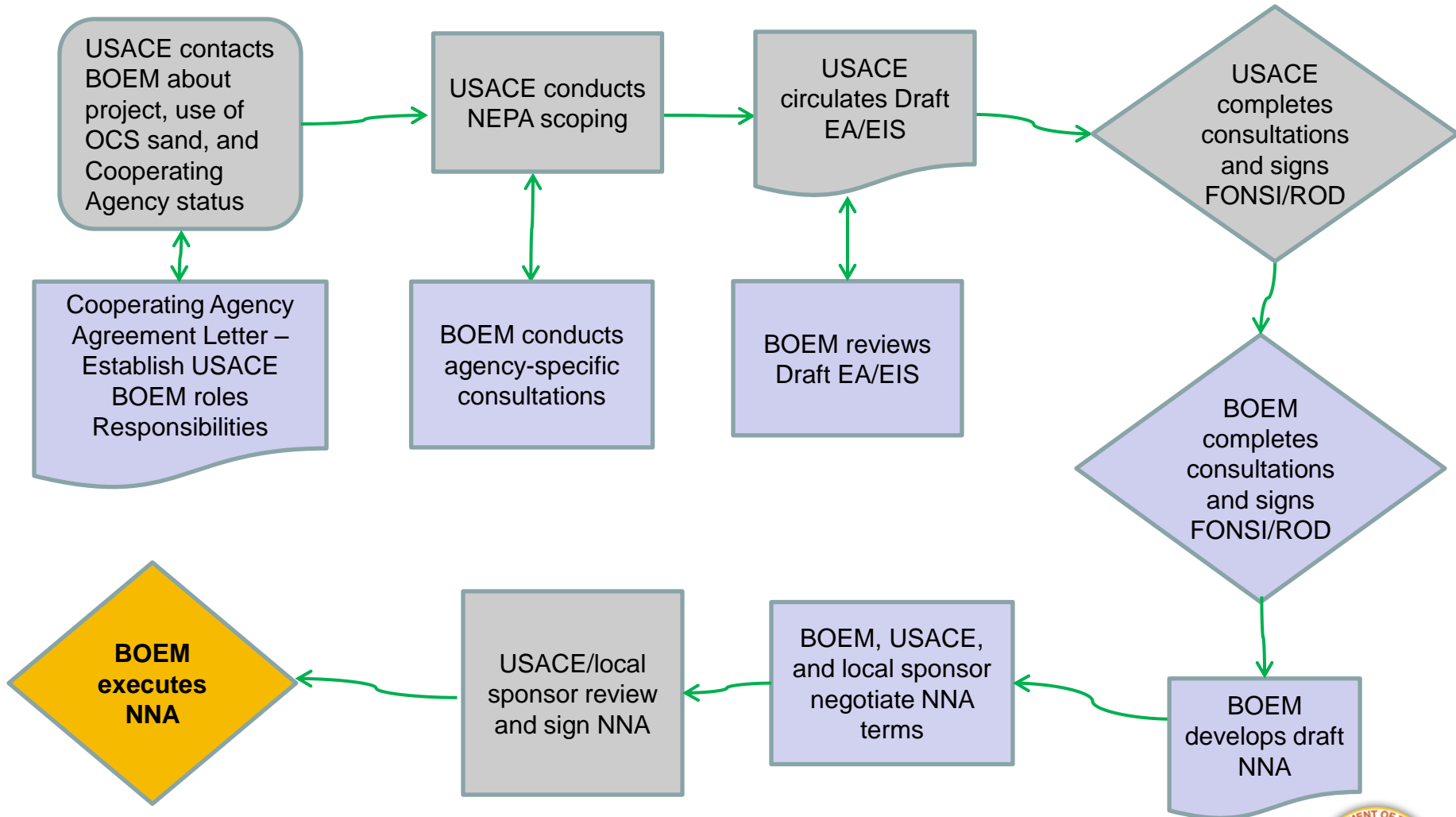
Each project is unique, having different parties involved, different environmental and leasing concerns, because of this each Agreement is for a one-time use. Typically for two years. Extensions may be granted.



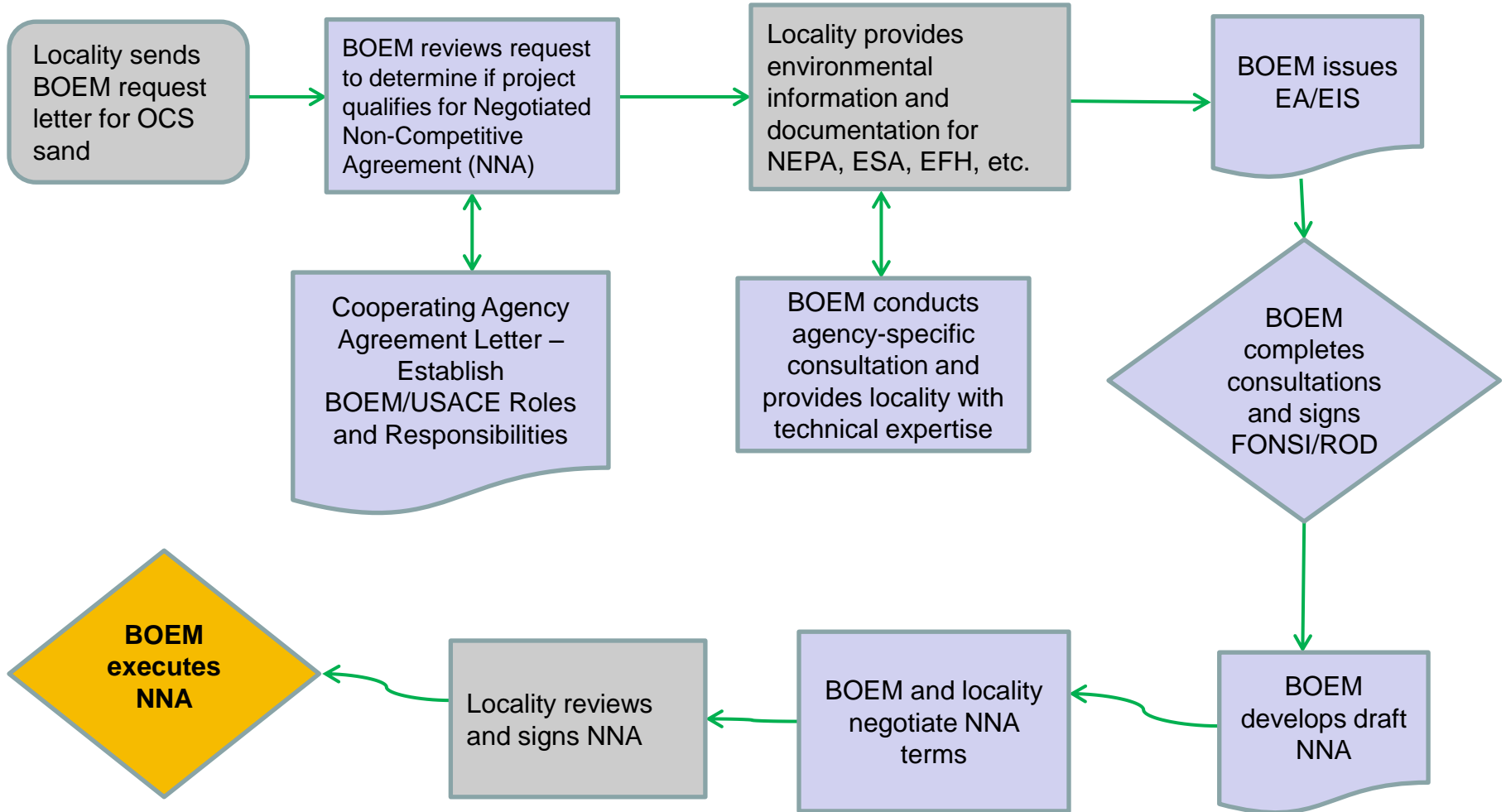
- **Cooperative agreements** between BOEM and coastal state agencies, local governments, and universities have been established since the 1990s to complete joint marine mineral resource evaluations to ID potential sand sources
- Project-specific **geophysical and geological (G&G) surveys** performed to identify and refine potential borrow area(s) with adequate volume of beach compatible sand
- G&G surveys on the OCS require a **Prospecting Authorization from BOEM (Form 0134)** if performed by an entity other than another Federal agency or Federal contractor
- In add'n to BOEM authorization, each project/survey is subject to other laws and requirements such as NEPA, CZMA, and NHPA



USACE Civil Works/BOEM Process to Obtain a Negotiated Non-Competitive Agreement (NNA)



Process for Locality to Obtain a Lease (USACE Regulatory Program)



- Federal agencies should contact BOEM early in the planning process to define agency roles and schedule constraints.
- USACE Districts considering using OCS material should contact BOEM during the initiation of a project's feasibility study.
- This will ensure that BOEM's NEPA requirements and NNA timeframes are incorporated into the feasibility schedule, and that all parties are aware of the steps and timeline necessary to obtain an NNA.



Requesting a NNA

- Applicant submits a **written request to BOEM** to obtain an NNA, preferably during the Draft EA or EIS stage
- **Ideally, letter should contain the following items:**
 - name, location, coordinates of the proposed OCS borrow area
 - placement location(s), potential pumpout and pipeline corridors
 - name of the local project sponsor and project manager
 - project funding and authorization
 - volume of sand/gravel requested to be *excavated* (not just placed)
 - status of Federal, state, and local permits and approvals required
 - project schedule and anticipated timeline to dredge the OCS material.
- BOEM will analyze the information contained in the letter to **determine if the project qualifies** for OCS resources under OCSLA



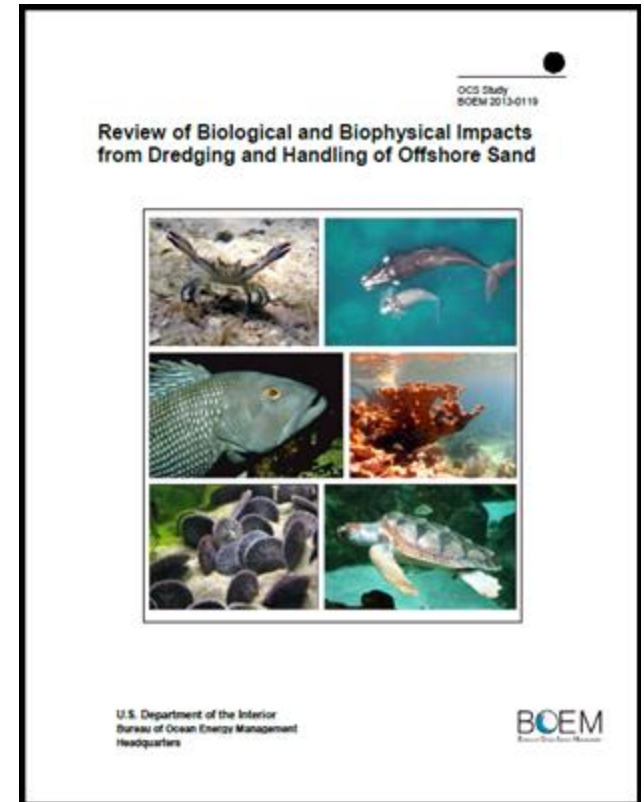
- Prior to execution of a NNA for OCS sand, gravel and shell resources, BOEM must complete an environmental review as required under NEPA and other environmental statutes
- BOEM determines types of environmental analysis required on a case-by-case basis
- Applicant must provide BOEM with the environmental data, analyses, and documents needed for BOEM to complete analysis of the project



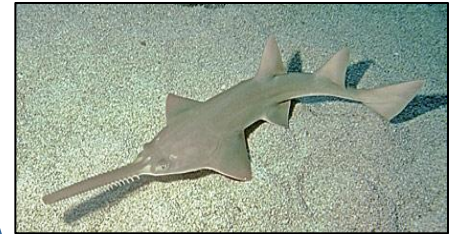
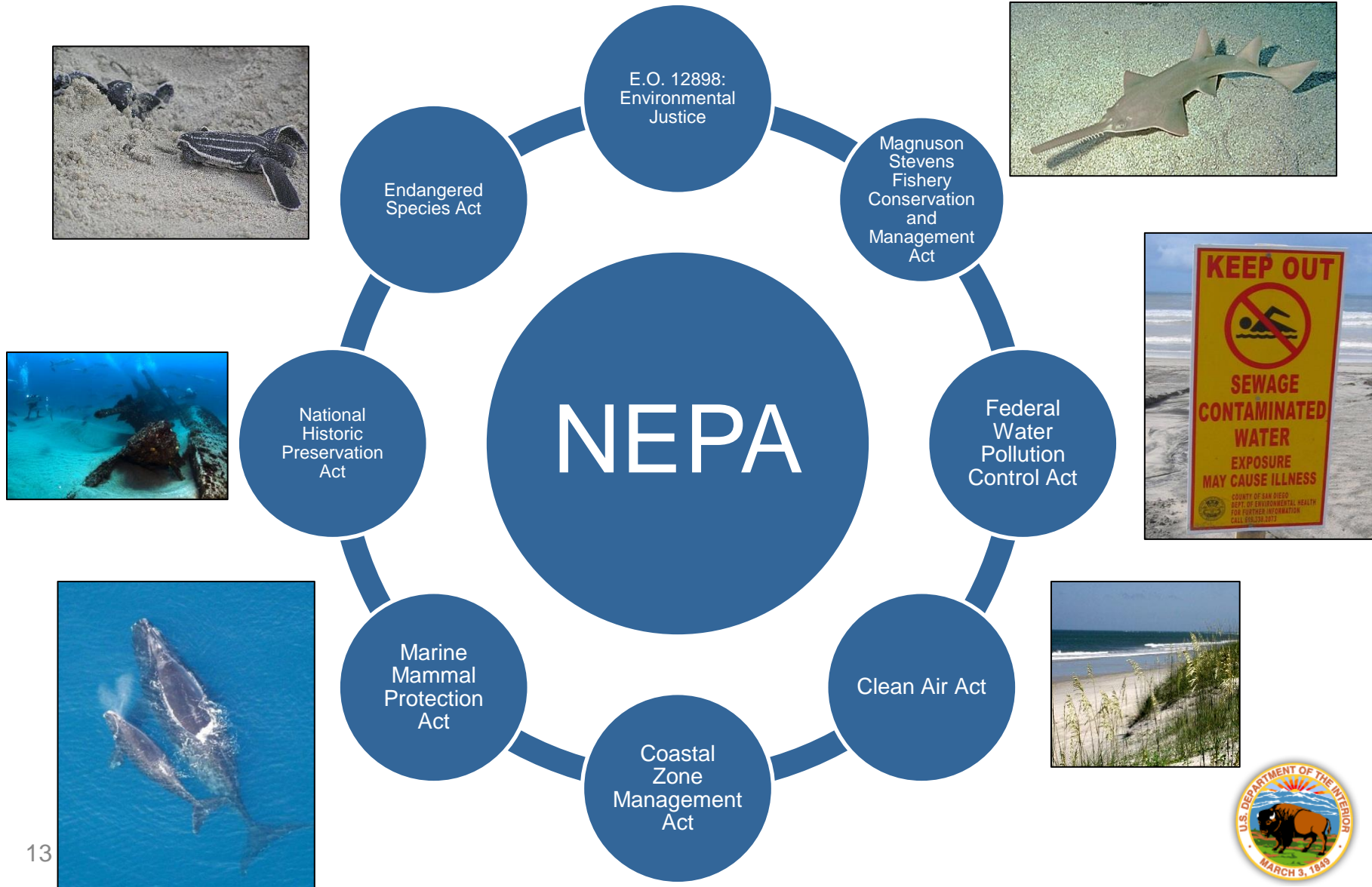
- Archaeological and cultural resources reports (NHPA requirements)
- Infrastructure or hazards surveys
- Biological Assessment(s) and Essential Fish Habitat (EFH) Assessments
- Physical Impact Analyses (i.e., hydrodynamic and sediment transport)
- Borrow area and nearshore benthic biological surveys
- CZMA Consistency Determination or Certification



- Provides information needed to predict, assess, and manage impacts from offshore dredging
- Over \$15 million spent on MMP-related environmental studies
- Mitigation and minimization measures derived from research findings
- Identify critical data gaps for guiding future research needs



<http://www.boem.gov/Marine-Minerals-Research-and-Studies/>



Can typically be executed within 12 to 18 months of the initial request, subject to:

- Completion of a NEPA review (EA or EIS) and decision document (Finding of No Significant Impact (FONSI) or Record of Decision (ROD))
- Presence of major environmental or multiple-use conflicts
- Regulatory issues
- Completion of the necessary environmental consultations
- Project deadlines
- Staff workload commitments

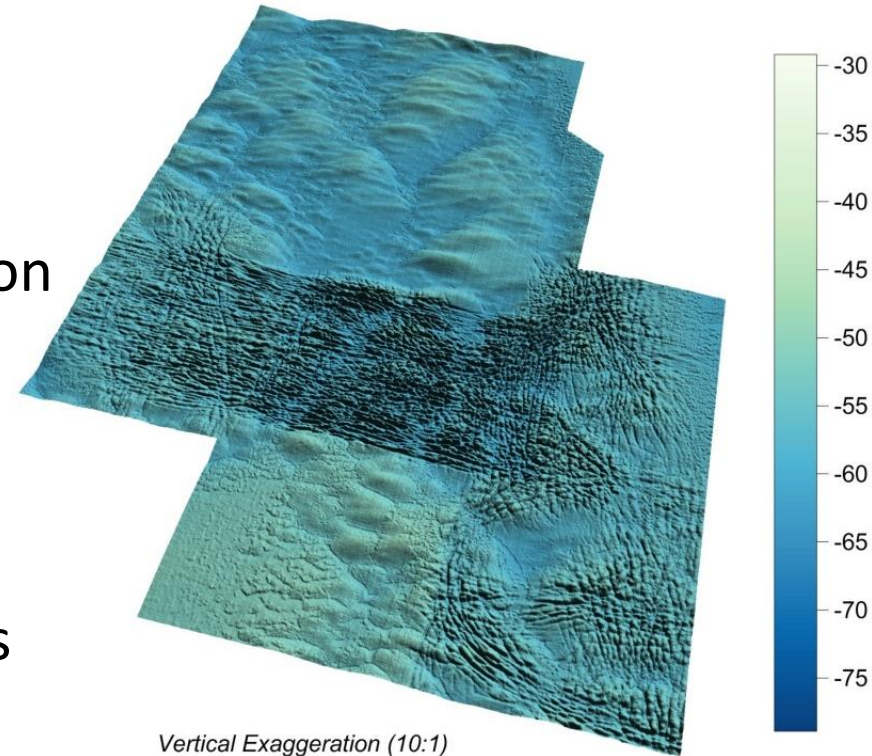
Project scheduling and deadlines are cooperatively developed by BOEM and the Applicant.



- BOEM prepares provisions of the agreement/lease based on mitigation requirements from NEPA, ESA, EFH, NHPA etc. and negotiates with project proponent(s)
- BOEM develops internal “approval” package reviewed by MMB Chief, Leasing Division Chief, Office of Environmental Programs, DOI Solicitors, Office of Strategic Resources (OSR)
- Once the agreement is approved internally, it is sent to project proponent(s) for signature
- Four (4) copies are transmitted back to BOEM for execution by the Chief OSR



- Notifications
- Dredge Positioning Reporting
- Dredge Operating Requirements
- Production and Volume Information
- Notice to Other Users
- Marine Pollution Control and Contingency Plan
- Discovery of Ordnance Procedures
- Bathymetric Surveys
- Protection of Archaeological Resources
- Monitoring and Reporting Requirements



- Pre- (60 days prior) and Post-Dredge (w/in 60 days completion) Bathymetric Surveys and submittal to BOEM w/in 30 days of survey completion (ASCII file containing x,y,z data)
- Biweekly summarizes of dredge tracklines and estimated volumetric production rates
- Project Completion Report (w/in 90 days of completion)
 - As built features, boundaries, acreage, beach width and length, final total volume extracted from borrow area and volume placed on beach
 - Summary set of dredging activity data
 - Major equipment used to construct project
 - Project costs
- We use information for tracking resource utilization and future NEPA analyses



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Summary Leasing Framework

