

Union Calendar No. 605

118TH CONGRESS
2^D SESSION

H. R. 6008

[Report No. 118-716]

To prohibit the implementation of certain documents until the Assistant Administrator for Fisheries of the National Marine Fisheries Service issues documents relating to the Rice's whale.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2023

Mr. GRAVES of Louisiana (for himself, Mr. EZELL, Mr. CARL, and Mr. HUNT)
introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on Natural Resources

OCTOBER 25, 2024

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on October 20, 2023]

A BILL

To prohibit the implementation of certain documents until the Assistant Administrator for Fisheries of the National Marine Fisheries Service issues documents relating to the Rice's whale.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Requiring Integrity in*
5 *Conservation Efforts Act” or as the “R.I.C.E.’s Whale Act”.*

6 **SEC. 2. PROHIBITION ON IMPLEMENTATION OF CERTAIN**
7 **ACTIONS UNTIL ISSUANCE OF DOCUMENTS**
8 **RELATING TO RICE’S WHALE.**

9 *(a) IN GENERAL.—*

10 *(1) COMPLIANCE WITH BIOLOGICAL OPINION.—*

11 *Notwithstanding any other provision of law, with re-*
12 *spect to current and future federally regulated oil and*
13 *gas program activities in the Gulf of Mexico, compli-*
14 *ance with the Biological Opinion shall serve to fully*
15 *satisfy the requirements of applicable Federal envi-*
16 *ronmental laws, including the Endangered Species*
17 *Act (16 U.S.C. 1531 et seq.) and the Marine Mammal*
18 *Protection Act (16 U.S.C.1371 et seq.).*

19 *(2) BOEM ACTIONS.—The Assistant Adminis-*
20 *trator and the Director may not implement, admin-*
21 *ister, or enforce the BOEM Actions until the Assistant*
22 *Administrator issues a revised Biological Opinion as*
23 *a result of reinitiated consultation with the Director*
24 *under section 7 of the Endangered Species Act of*

1 1973 (16 U.S.C. 1536) and in accordance with this
2 section.

3 (b) *REINITIATED CONSULTATION ON BIOLOGICAL*
4 *OPINION.*—

5 (1) *IN GENERAL.*—*The Assistant Administrator*
6 *and the Director may not request, commence, carry*
7 *out, or complete reinitiated consultation on the Bio-*
8 *logical Opinion under this section until—*

9 (A) *the Assistant Administrator issues a*
10 *final rule designating critical habitat for the*
11 *Rice’s whale (*Balaenoptera ricei*) that is con-*
12 *sistent with—*

13 (i) *the results of the study conducted*
14 *pursuant to subsection (c);*

15 (ii) *the requirements of the rulemaking*
16 *process pursuant to subchapter II of chapter*
17 *5, and chapter 7, of title 5, United States*
18 *Code (commonly known as the “Adminis-*
19 *trative Procedure Act”);*

20 (iii) *the requirement to conduct an eco-*
21 *nomic impact analysis pursuant to Execu-*
22 *tive Order 12866 (5 U.S.C. 601 note; relat-*
23 *ing to regulatory planning and review);*

24 (iv) *section 307 of the Coastal Zone*
25 *Management Act of 1972 (16 U.S.C. 1456);*

1 (v) *the Paperwork Reduction Act of*
2 1995 (44 U.S.C. 3501 et seq.); and

3 (vi) *chapter 6 of title 5, United States*
4 *Code (commonly known as the “Regulatory*
5 *Flexibility Act”); and*

6 (B) *the Assistant Administrator revises and*
7 *finalizes the proposed rule titled “Taking and*
8 *Importing Marine Mammals; Taking Marine*
9 *Mammals Incidental to Geophysical Surveys in*
10 *the Gulf of Mexico” (88 Fed. Reg. 916; January*
11 *5, 2023) to include a correction of the erroneous*
12 *estimates of incidental take of marine mammals*
13 *anticipated from the activities analyzed in the*
14 *final rule titled “Taking and Importing Marine*
15 *Mammals; Taking Marine Mammals Incidental*
16 *to Geophysical Surveys Related to Oil and Gas*
17 *Activities in the Gulf of Mexico” (86 Fed. Reg.*
18 *5322; January 19, 2021).*

19 (2) *COOPERATION WITH STATES.—In carrying*
20 *out this section, the Assistant Administrator and the*
21 *Director shall cooperate with each State to resolve*
22 *issues that threaten to impair the exploration, devel-*
23 *opment, production, transportation, servicing, or*
24 *processing of offshore energy resources and related ac-*
25 *tivities.*

1 (3) *PUBLICATION AND REVIEW.*—*In carrying out*
2 *any consultation or reinitiated consultation on the*
3 *Biological Opinion under this section, the Assistant*
4 *Administrator and the Director shall take steps to en-*
5 *sure—*

6 (A) *that any scientific evidence considered*
7 *and relied upon as a part of the consultation or*
8 *reinitiation of consultation is—*

9 (i) *made publicly available; and*

10 (ii) *peer reviewed by the National*
11 *Academies of Science, Engineering, and*
12 *Medicine to ensure scientific rigor and inde-*
13 *pendence; and*

14 (B) *that any party directly impacted by the*
15 *BOEM Actions shall—*

16 (i) *have routine and continuing oppor-*
17 *tunities to discuss and submit information*
18 *to the action agency for consideration dur-*
19 *ing the development of any biological assess-*
20 *ment or proposed action;*

21 (ii) *be informed by the action agency*
22 *of the schedule for preparation of a biologi-*
23 *cal assessment or proposed action;*

24 (iii) *receive a copy of any proposed ac-*
25 *tion and have the opportunity to review*

1 that document and provide comment to the
2 action agency (which shall be afforded due
3 consideration during development);

4 (iv) be informed by the consulting
5 agencies, the Bureau of Ocean Energy Man-
6 agement, or the National Marine Fisheries
7 Service, of the schedule for preparation of
8 the biological opinion when the biological
9 assessment is submitted to the consulting
10 agency by the action agency;

11 (v) receive a copy of any draft biologi-
12 cal opinion and have the opportunity to re-
13 view that document and provide comment
14 to the action agency (which shall be afforded
15 due consideration during development);

16 (vi) have the opportunity to confer
17 with the action agency regarding reasonable
18 and prudent alternatives prior to the action
19 agency identifying 1 or more reasonable
20 and prudent alternatives for consideration
21 by the consulting agency; and

22 (vii) where the action agency proposes
23 a proposed action or a consulting agency
24 suggests a reasonable and prudent alter-
25 native, be informed of—

1 (I) how each component of such
2 proposed action or alternative will con-
3 tribute to avoiding jeopardy or adverse
4 modification of critical habitat and the
5 scientific data or information that
6 supports each component of the pro-
7 posed action or alternative; and

8 (II) why other proposed alter-
9 native actions that would have fewer
10 impairments to the supply of offshore
11 energy and economic impacts are inad-
12 equate to avoid jeopardy or adverse
13 modification of critical habitat.

14 (4) MEETINGS.—

15 (A) IN GENERAL.—During any consultation
16 or reinitiated consultation on the Biological
17 Opinion carried out under this section, the As-
18 sistant Administrator and the Director shall, on
19 a quarterly basis, hold stakeholder meetings to
20 provide updates on the development of a new or
21 revised biological assessment or biological opin-
22 ion.

23 (B) PARTICIPANTS.—Each stakeholder meet-
24 ing held under subparagraph (A) shall—

1 (i) be open to stakeholders identified by
2 the Assistant Administrator and the Direc-
3 tor; and

4 (ii) include stakeholders that—

5 (I) represent a broad range of in-
6 terests, including environmental, rec-
7 reational and commercial fishing, con-
8 ventional and renewable energy, ports,
9 and other regional interests; and

10 (II) are not State or local agen-
11 cies.

12 (5) *CLARIFICATION.*—The Assistant Adminis-
13 trator and the Director may not use stakeholder meet-
14 ings held under paragraph (3) to fulfill the require-
15 ments of paragraph (2).

16 (c) *RICE'S WHALE STUDY.*—The Assistant Adminis-
17 trator shall enter into an agreement with the National
18 Academies of Science, Engineering, and Medicine to con-
19 duct a study to determine the occurrence and range of the
20 Rice's whale (*Balaenoptera ricei*) in the Central, Eastern,
21 and Western Gulf of Mexico Planning Areas.

22 (d) *LEASING ACTIVITIES.*—The Secretary of the Inte-
23 rior may not rely on or implement the BOEM Actions in
24 carrying out offshore oil and gas leasing activities under

1 *the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et*
2 *seq.).*

3 *(e) DEFINITIONS.—In this section:*

4 *(1) ASSISTANT ADMINISTRATOR.—The term “As-*
5 *stant Administrator” means the Assistant Adminis-*
6 *trator for Fisheries of the National Marine Fisheries*
7 *Service.*

8 *(2) BIOLOGICAL OPINION.—The term “Biological*
9 *Opinion” means the document titled “Biological*
10 *Opinion on the Federally Regulated Oil and Gas Pro-*
11 *gram Activities in the Gulf of Mexico” (OPR–2017–*
12 *00002; March 13, 2020).*

13 *(3) BOEM ACTIONS.—The term “BOEM Ac-*
14 *tions” means—*

15 *(A) the exclusion from leasing in the Gulf*
16 *of Mexico Outer Continental Shelf Oil and Gas*
17 *Lease Sale 261 of acreage between the 100 meter*
18 *and 400 meter isobaths across the northern Gulf*
19 *of Mexico, as identified in the document titled*
20 *“Gulf of Mexico Outer Continental Shelf Oil and*
21 *Gas Lease Sale 261” (88 Fed. Reg. 58300; pub-*
22 *lished August 25, 2023);*

23 *(B) the imposition in the Gulf of Mexico*
24 *Outer Continental Shelf Oil and Gas Lease Sale*
25 *261 of lease stipulations that limit vessel oper-*

1 *ation pursuant to section IV(4) of such docu-*
2 *ment; and*

3 *(C) the Notice to Lessees.*

4 *(4) DIRECTOR.—The term “Director” means the*
5 *Director of the Bureau of Ocean Energy Management.*

6 *(5) NOTICE TO LESSEES.—The term “Notice to*
7 *Lessees” means the document titled “Notice to Lessees*
8 *and Operators of Federal Oil and Gas, and Sulphur*
9 *Leases in the Gulf of Mexico Outer Continental Shelf;*
10 *Expanded Rice’s Whale Protection Efforts During Re-*
11 *initiated Consultation with NMFS” (BOEM NTL No.*
12 *2023–G01; August 17, 2023), or a substantially simi-*
13 *lar document.*

14 *(6) STATE.—The term “State” means each of the*
15 *States of Alabama, Louisiana, Mississippi, and*
16 *Texas.*

Amend the title so as to read: “A bill to prohibit the implementation of certain actions until the Assistant Administrator for Fisheries of the National Marine Fisheries Service issues documents relating to the Rice’s whale.”.

Union Calendar No. 605

118TH CONGRESS
2^D SESSION

H. R. 6008

[Report No. 118-716]

A BILL

To prohibit the implementation of certain documents until the Assistant Administrator for Fisheries of the National Marine Fisheries Service issues documents relating to the Rice's whale.

OCTOBER 25, 2024

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed