

118TH CONGRESS
1ST SESSION

S. 2986

To prohibit the issuance of an interim or final rule, and to prohibit the inclusion in certain oil and gas leases, exploration or development plans, or well permits requirements or recommendations, that establish a vessel speed or operational restriction in the Central or Western Planning Area of the Gulf of Mexico of the outer Continental Shelf until the Secretary of the Interior and the Secretary of Commerce complete a study demonstrating that proposed mitigation efforts would have no negative impact on supply chains, United States offshore energy production and generation, military activities, including readiness, and United States commercial and recreational fishing maritime commerce, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2023

Mr. CASSIDY (for himself, Ms. LUMMIS, Mrs. HYDE-SMITH, Mrs. BRITT, Mr. WICKER, Mr. TUBERVILLE, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prohibit the issuance of an interim or final rule, and to prohibit the inclusion in certain oil and gas leases, exploration or development plans, or well permits requirements or recommendations, that establish a vessel speed or operational restriction in the Central or Western Planning Area of the Gulf of Mexico of the outer Continental Shelf until the Secretary of the Interior and the Secretary of Commerce complete a study demonstrating that proposed mitigation efforts would have no negative im-

pact on supply chains, United States offshore energy production and generation, military activities, including readiness, and United States commercial and recreational fishing maritime commerce, and for other purposes.

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 “Warding off Hostile
 5 Administrative Leasing Efforts Act” or the “WHALE
 6 Act”.

7 **SEC. 2. VESSEL SPEED OR OPERATIONAL RESTRICTIONS IN**
 8 **THE GULF OF MEXICO.**

9 (a) IN GENERAL.—The Secretary of Commerce shall
 10 not issue an interim or final rule, and the Secretary of
 11 the Interior shall not include in an offshore oil and gas
 12 lease sale, exploration or development plan, or well permit
 13 in the Central or Western Planning Area of the Gulf of
 14 Mexico of the outer Continental Shelf a requirement or
 15 recommendation, that establishes a vessel speed or vessel
 16 operational restriction for any length of time in such a
 17 Planning Area until the Secretary of Commerce and Sec-
 18 retary of the Interior—

19 (1) complete a study—

20 (A) assessing the impact of any mitigation
 21 protocols developed under subsection (b) on—

1 (i) the core habitat for Rice's whales
2 in the Eastern Planning Area of the Gulf
3 of Mexico; and

4 (ii) seasonal occupation and usage
5 patterns outside such core habitat; and

6 (B) demonstrating that mitigation proto-
7 cols developed under subsection (b) would have
8 no negative impact on supply chains, United
9 States offshore energy production and genera-
10 tion, military activities, including readiness, and
11 United States commercial and recreational fish-
12 ing or maritime commerce; and

13 (2) not later than 60 days after completing the
14 study described in paragraph (1), submit a report
15 containing the findings of such study to—

16 (A) the Committee on Commerce, Science,
17 and Transportation and the Committee on En-
18 ergy and Natural Resources of the Senate; and

19 (B) the Committee on Natural Resources
20 and the Committee on Energy and Commerce
21 of the House of Representatives.

22 (b) MITIGATION PROTOCOLS REQUIRED.—

23 (1) IN GENERAL.—The Secretary of Commerce,
24 in concurrence with the Secretary of the Interior and
25 in consultation with the Secretary of the department

1 in which the Coast Guard is operating, the Secretary
2 of Defense, the Secretary of Transportation, and af-
3 fected stakeholders, shall develop mitigation proto-
4 cols that make use of any monitoring system de-
5 signed under section 11303 of the Don Young Coast
6 Guard Authorization Act of 2022 (16 U.S.C. 1391)
7 to direct sector-specific mitigation measures that re-
8 duce the risk of serious injury and mortality to
9 Rice’s whales in the Eastern Planning Area of the
10 Gulf of Mexico.

11 (2) PROHIBITIONS.—The mitigation protocols
12 developed under paragraph (1) may not include—

13 (A) any prohibitions on transit at night; or

14 (B) implementation of a vessel speed or
15 vessel operational restriction.

16 (c) NATIONAL SECURITY.—The Secretary of Com-
17 merce shall, in coordination with the Secretary of Defense,
18 provide in any interim or final rule described in subsection
19 (a) an exception for national security activities.

20 (d) DEFINITION OF CORE HABITAT.—For purposes
21 of this section, the term “core habitat”, with respect to
22 Rice’s whales, has the meaning given the term “Bryde’s
23 whale area” in the “Biological Opinion on the Federally
24 Regulated Oil and Gas Program Activities in the Gulf of

1 Mexico'' published by the Department of Commerce on
2 March 13, 2020.

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