

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6008
OFFERED BY MR. GRAVES OF LOUISIANA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

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

8 (a) IN GENERAL.—

9 (1) COMPLIANCE WITH BIOLOGICAL OPINION.—

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

1 (2) BOEM ACTIONS.—The Assistant Adminis-
2 trator and the Director may not implement, admin-
3 ister, or enforce the BOEM Actions until the Assist-
4 ant Administrator issues a revised Biological Opin-
5 ion as a result of reinitiated consultation with the
6 Director under section 7 of the Endangered Species
7 Act of 1973 (16 U.S.C. 1536) and in accordance
8 with this section.

9 (b) REINITIATED CONSULTATION ON BIOLOGICAL
10 OPINION.—

11 (1) IN GENERAL.—The Assistant Administrator
12 and the Director may not request, commence, carry
13 out, or complete reinitiated consultation on the Bio-
14 logical Opinion under this section until—

15 (A) the Assistant Administrator issues a
16 final rule designating critical habitat for the
17 Rice’s whale (*Balaenoptera ricei*) that is con-
18 sistent with—

19 (i) the results of the study conducted
20 pursuant to subsection (c);

21 (ii) the requirements of the rule-
22 making process pursuant to subchapter II
23 of chapter 5, and chapter 7, of title 5,
24 United States Code (commonly known as
25 the “Administrative Procedure Act”);

1 (iii) the requirement to conduct an
2 economic impact analysis pursuant to Ex-
3 ecutive Order 12866 (5 U.S.C. 601 note;
4 relating to regulatory planning and re-
5 view);

6 (iv) section 307 of the Coastal Zone
7 Management Act of 1972 (16 U.S.C.
8 1456);

9 (v) the Paperwork Reduction Act of
10 1995 (44 U.S.C. 3501 et seq.); and

11 (vi) chapter 6 of title 5, United States
12 Code (commonly known as the “Regulatory
13 Flexibility Act”); and

14 (B) the Assistant Administrator revises
15 and finalizes the proposed rule titled “Taking
16 and Importing Marine Mammals; Taking Ma-
17 rine Mammals Incidental to Geophysical Sur-
18 veys in the Gulf of Mexico” (88 Fed. Reg. 916;
19 January 5, 2023) to include a correction of the
20 erroneous estimates of incidental take of marine
21 mammals anticipated from the activities ana-
22 lyzed in the final rule titled “Taking and Im-
23 porting Marine Mammals; Taking Marine Mam-
24 mals Incidental to Geophysical Surveys Related

1 to Oil and Gas Activities in the Gulf of Mexico”
2 (86 Fed. Reg. 5322; January 19, 2021).

3 (2) COOPERATION WITH STATES.—In carrying
4 out this section, the Assistant Administrator and the
5 Director shall cooperate with each State to resolve
6 issues that threaten to impair the exploration, devel-
7 opment, production, transportation, servicing, or
8 processing of offshore energy resources and related
9 activities.

10 (3) PUBLICATION AND REVIEW.—In carrying
11 out any consultation or reinitiated consultation on
12 the Biological Opinion under this section, the Assist-
13 ant Administrator and the Director shall take steps
14 to ensure—

15 (A) that any scientific evidence considered
16 and relied upon as a part of the consultation or
17 reinitiation of consultation is—

18 (i) made publicly available; and

19 (ii) peer reviewed by the National
20 Academies of Science, Engineering, and
21 Medicine to ensure scientific rigor and
22 independence; and

23 (B) that any party directly impacted by
24 the BOEM Actions shall—

1 (i) have routine and continuing oppor-
2 tunities to discuss and submit information
3 to the action agency for consideration dur-
4 ing the development of any biological as-
5 sessment or proposed action;

6 (ii) be informed by the action agency
7 of the schedule for preparation of a biologi-
8 cal assessment or proposed action;

9 (iii) receive a copy of any proposed ac-
10 tion and have the opportunity to review
11 that document and provide comment to the
12 action agency (which shall be afforded due
13 consideration during development);

14 (iv) be informed by the consulting
15 agencies, the Bureau of Ocean Energy
16 Management, or the National Marine Fish-
17 eries Service, of the schedule for prepara-
18 tion of the biological opinion when the bio-
19 logical assessment is submitted to the con-
20 sulting agency by the action agency;

21 (v) receive a copy of any draft biologi-
22 cal opinion and have the opportunity to re-
23 view that document and provide comment
24 to the action agency (which shall be af-

1 forded due consideration during develop-
2 ment);

3 (vi) have the opportunity to confer
4 with the action agency regarding reason-
5 able and prudent alternatives prior to the
6 action agency identifying 1 or more reason-
7 able and prudent alternatives for consider-
8 ation by the consulting agency; and

9 (vii) where the action agency proposes
10 a proposed action or a consulting agency
11 suggests a reasonable and prudent alter-
12 native, be informed of—

13 (I) how each component of such
14 proposed action or alternative will
15 contribute to avoiding jeopardy or ad-
16 verse modification of critical habitat
17 and the scientific data or information
18 that supports each component of the
19 proposed action or alternative; and

20 (II) why other proposed alter-
21 native actions that would have fewer
22 impairments to the supply of offshore
23 energy and economic impacts are in-
24 adequate to avoid jeopardy or adverse
25 modification of critical habitat.

1 (4) MEETINGS.—

2 (A) IN GENERAL.—During any consulta-
3 tion or reinitiated consultation on the Biological
4 Opinion carried out under this section, the As-
5 sistant Administrator and the Director shall, on
6 a quarterly basis, hold stakeholder meetings to
7 provide updates on the development of a new or
8 revised biological assessment or biological opin-
9 ion.

10 (B) PARTICIPANTS.—Each stakeholder
11 meeting held under subparagraph (A) shall—

12 (i) be open to stakeholders identified
13 by the Assistant Administrator and the Di-
14 rector; and

15 (ii) include stakeholders that—

16 (I) represent a broad range of in-
17 terests, including environmental, rec-
18 reational and commercial fishing, con-
19 ventional and renewable energy, ports,
20 and other regional interests; and

21 (II) are not State or local agen-
22 cies.

23 (5) CLARIFICATION.—The Assistant Adminis-
24 trator and the Director may not use stakeholder

1 meetings held under paragraph (3) to fulfill the re-
2 quirements of paragraph (2).

3 (c) RICE'S WHALE STUDY.—The Assistant Adminis-
4 trator shall enter into an agreement with the National
5 Academies of Science, Engineering, and Medicine to con-
6 duct a study to determine the occurrence and range of
7 the Rice's whale (*Balaenoptera ricei*) in the Central, East-
8 ern, and Western Gulf of Mexico Planning Areas.

9 (d) LEASING ACTIVITIES.—The Secretary of the In-
10 terior may not rely on or implement the BOEM Actions
11 in carrying out offshore oil and gas leasing activities under
12 the Outer Continental Shelf Lands Act (43 U.S.C. 1331
13 et seq.).

14 (e) DEFINITIONS.—In this section:

15 (1) ASSISTANT ADMINISTRATOR.—The term
16 “Assistant Administrator” means the Assistant Ad-
17 ministrator for Fisheries of the National Marine
18 Fisheries Service.

19 (2) BIOLOGICAL OPINION.—The term “Biologi-
20 cal Opinion” means the document titled “Biological
21 Opinion on the Federally Regulated Oil and Gas
22 Program Activities in the Gulf of Mexico” (OPR-
23 2017-00002; March 13, 2020).

24 (3) BOEM ACTIONS.—The term “BOEM Ac-
25 tions” means—

1 (A) the exclusion from leasing in the Gulf
2 of Mexico Outer Continental Shelf Oil and Gas
3 Lease Sale 261 of acreage between the 100
4 meter and 400 meter isobaths across the north-
5 ern Gulf of Mexico, as identified in the docu-
6 ment titled “Gulf of Mexico Outer Continental
7 Shelf Oil and Gas Lease Sale 261” (88 Fed.
8 Reg. 58300; published August 25, 2023);

9 (B) the imposition in the Gulf of Mexico
10 Outer Continental Shelf Oil and Gas Lease Sale
11 261 of lease stipulations that limit vessel oper-
12 ation pursuant to section IV(4) of such docu-
13 ment; and

14 (C) the Notice to Lessees.

15 (4) DIRECTOR.—The term “Director” means
16 the Director of the Bureau of Ocean Energy Man-
17 agement.

18 (5) NOTICE TO LESSEES.—The term “Notice to
19 Lessees” means the document titled “Notice to Les-
20 sees and Operators of Federal Oil and Gas, and Sul-
21 phur Leases in the Gulf of Mexico Outer Continental
22 Shelf; Expanded Rice’s Whale Protection Efforts
23 During Reinitiated Consultation with NMFS”
24 (BOEM NTL No. 2023–G01; August 17, 2023), or
25 a substantially similar document.

1 (6) STATE.—The term “State” means each of
2 the States of Alabama, Louisiana, Mississippi, and
3 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”.

