

Background

Bureau of Ocean Energy Management (BOEM) [Notice to Lessees \(NTL\) 2023-G01](#) was developed to provide recommendations for lessees and operators regarding voluntary measures for operational Rice's whale precautions during the period when the Bureau of Safety and Environmental Enforcement (BSEE) and BOEM are engaged in reinitiated consultation with the National Marine Fisheries Service (NMFS) on the 2020 Biological Opinion, as amended (2020 BiOp).

These recommendations apply to the area comprising the northern Gulf of Mexico Outer Continental Shelf (OCS) between the 100- and 400-m isobaths. This delineation is based on recent third-party, scientific information indicating that Rice's whale may occur in portions of this area. Because the possibility of incidental take of Rice's whale in the Expanded Rice's Whale Area cannot be dismissed at this time, these additional precautions may be warranted.

These recommendations will remain in effect until revoked by BOEM. The recommendations are intended to be used as voluntary precautionary measures taken during BOEM's ongoing reinitiated consultation with NMFS. BOEM recommends that lessees and operators implement the voluntary measures, as practicable, when engaged in oil and gas activity within the expanded Rice's Whale Area.

NTLs are recommendations issued in accordance with 30 CFR 550.103 to clarify and provide more detail about certain BOEM regulatory requirements and to outline the recommended information to be provided in various submittals. Except to the extent that provisions of the NTL derive from requirements established by statute, regulation, or by a provision in the lease, they do not have the force and effect of law and are not meant to bind the public in any way. The provisions of the NTL may also be made mandatory in whole or part through terms, stipulations, or conditions of approval from BOEM in leases, plans, permits, or other authorizations.

Frequently Asked Questions

Question: What types of scenarios would the bureaus consider to fall within the "safety" exclusion discussed in paragraph III.c of the NTL?

Answer: The NTL states that the recommendation to observe a 10-knot or less speed restriction at all times in the Expanded Rice's Whale Area would not apply "when compliance would place the safety of the vessel or crew, or the safety of life at sea, in doubt." The Bureaus would consider this exclusion to apply when a vessel is supporting safe operations for personnel and the environment on OCS facilities. Those operations include **but are not limited to** the following:

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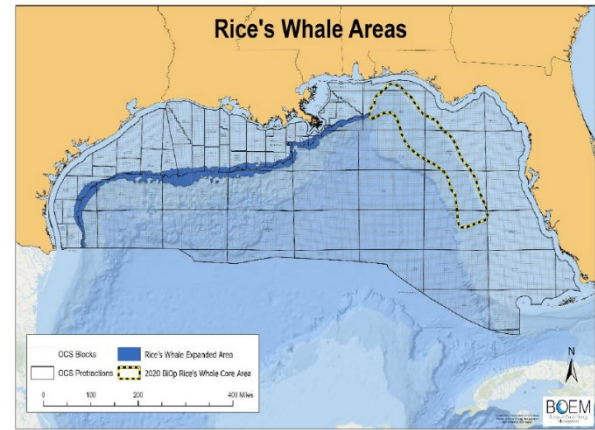


Figure 1: Expanded Rice's Whale Area.

- Responding to potential or actual well control events.
- Performing time-sensitive maintenance on BSEE-regulated equipment or safety systems designed to prevent an undesirable event.
- Supporting evacuations due to a potential or actual weather event.
- Securing drilling, workover, completion, abandonment, or production facilities or mobile offshore drilling units in preparation for weather events.
- Evacuating personnel due to injury or illness.
- Transporting equipment or personnel to support a response to potential or ongoing reportable incidents (30 CFR 250.188).
- Rendering aid and assistance to other vessels or personnel in distress.
- Operating to prevent or reduce environmental impacts from potential or actual pollution events (e.g., pipeline leaks/ruptures, facility spills, hazardous discharges).
- Supporting necessary crew provisioning activities or critical drilling/production operations, for which a halt in activities to await personnel or equipment could lead to unsafe operations or risk of unauthorized environmental impacts.

BSEE recommends vessels keep an onboard log of vessel operations to document their voluntary implementation of the recommended precautionary measures, including where implementation of these precautions, such as avoiding activities or transit during nighttime hours or low visibility as provided in paragraph (c) of the NTL, is infeasible, impractical, or unsafe. Documentation should also include the application of and justification for reliance on this exclusion.

Question: Does BSEE intend to provide training requirements or guidelines for the recommended visual observers?

Answer: BSEE recommends that lessees, operators, and/or vessel contractors seek the assistance of protected species observer (PSO) training groups that provide similar certifications and/or contract personnel that support similar existing requirements applicable to Gulf of Mexico OCS impact-hammer/pile-driving activities and seismic surveying.

Question: Will BSEE require submission of training certifications, implementation documents, transit records, sighting information, or other documentation noted in the NTL?

Answer: The NTL recommends that all records associated with the voluntary implementation of these measures be maintained by the lessee or operator, which should include where implementation of these precautions, such as avoiding activities or transit during nighttime hours or low visibility as provided in paragraph (c) of the NTL, is infeasible, impractical, or unsafe.

Question: Does the NTL apply to activities conducted pursuant to a Geological and Geophysical (G&G) Permit?

Answer: G&G permits are reviewed and approved by BOEM in compliance with the BiOp requirements, as addressed under this NTL. G&G permittees are also subject to Letters of Authorization (LOA) from the National Marine Fisheries Service pursuant to its Incidental Take Regulations (Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico; 86 FR 5322). If an existing or newly-

issued LOA does not include coverage for the Expanded Rice's Whale Area, BOEM recommends that you follow the precautionary measures outlined under the NTL.

Question: Will the expanded area impact the Wind Energy Areas in the Gulf of Mexico?

Answer: No. The Gulf of Mexico Wind Energy Areas are inshore (north) of the 100 m to 400-m area.

Question: What vessels will the NTL affect?

Answer: An NTL is a notice to leaseholders and therefore the recommendations in the NTL apply only to vessels associated with federally authorized OCS oil and gas activities.

Question: How many existing leases are in the Expanded Rice's Whale Area?

Answer: There are 165 active oil and gas leases in the Expanded Rice's Whale Area.

Question: Does the NTL have the effect of law?

Answer: No, the NTL contains recommendations for suggested precautionary measures during the reinitiated consultation.

Question: Who should I contact with questions associated with this NTL that are not addressed in this FAQ?

Answer: Any questions regarding the recommendations in this NTL can be submitted to BSEE at ProtectedSpecies@BSEE.gov or BOEM at ProtectedSpecies@BOEM.gov. To assist with the response timing, please note "Rice's Whale NTL" in the subject line of the email.