



Assessing Solutions to Secure America's Offshore Energy Future: Limitations and Liabilities of Offshore Oil and Gas Drilling

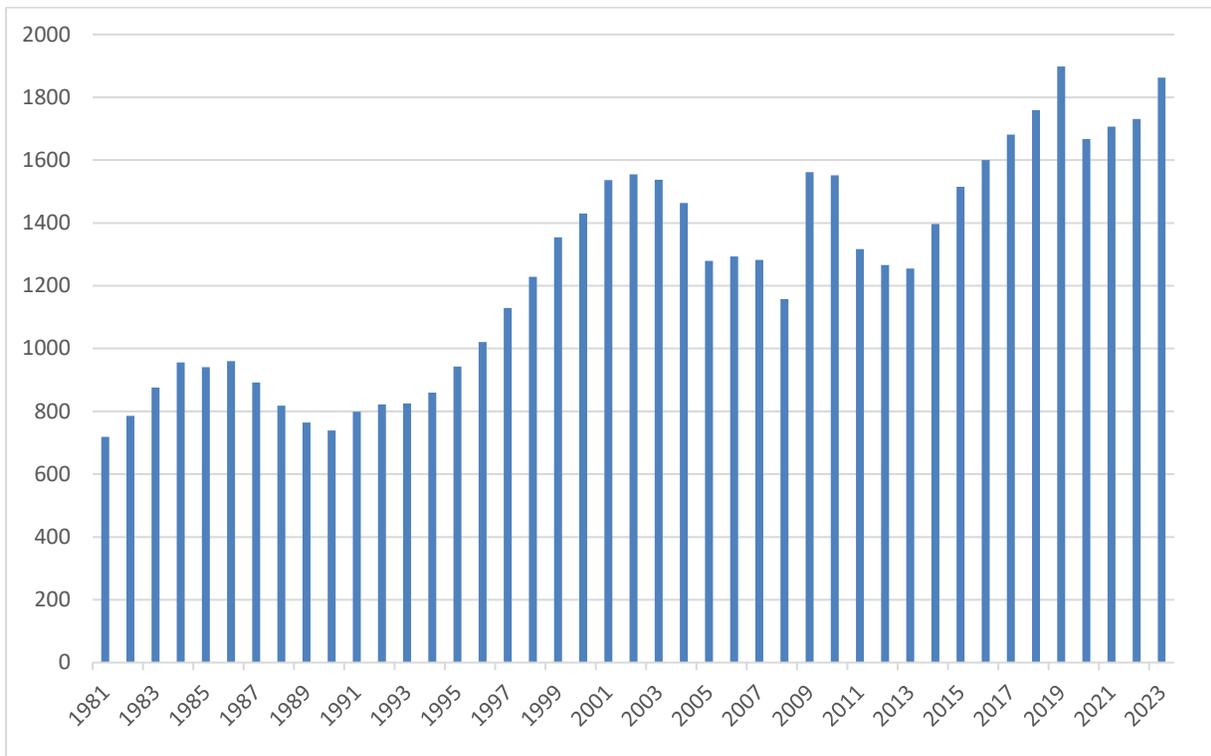
Testimony of Tyson Slocum, Energy Program Director, Public Citizen, before
the Subcommittee on Energy and Mineral Resources of the House
Committee on Natural Resources

April 18, 2024

I am Tyson Slocum, and I direct the Energy Program at Public Citizen. Public Citizen is a national consumer advocacy organization with more than 500,000 members and supporters across the country. I serve on two advisory committees to the U.S. Commodity Futures Trading Commission (Energy and Environmental Markets Advisory Committee, and the Market Risk Advisory Committee), and am a faculty member at the University of Maryland. I oversee Public Citizen’s work on petroleum, natural gas and electric power markets, including intervening in adjudicatory proceedings at the Federal Energy Regulatory Commission and the U.S. Department of Energy on behalf of household consumers.

The title of today’s hearing is *Assessing Solutions to Secure America’s Offshore Energy Future*. No nation in history has ever produced as much oil and natural gas as the United States does today. We are not only the world’s largest oil and natural gas producer, but also the biggest exporter of petroleum and natural gas. Federal offshore oil production in the Gulf of Mexico reached its 2nd highest output in history in 2023, behind only 2019.¹

Federal Offshore, Gulf of Mexico Field Production of Crude Oil (Thousand Barrels per Day)



Source: U.S. Energy Information Administration

¹ www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfp3fm2&f=a

The data quite clearly demonstrates that, during President Joe Biden’s term, America has achieved energy dominance: we now produce more petroleum and natural gas than we domestically consume. But so-called energy dominance in oil and gas production does not and cannot deliver consistently low gasoline or natural gas prices to American consumers, because our record exports ensure our domestic prices are firmly linked to global markets, exposing Americans to inherent pricing volatility.

Expanding production of oil and natural gas in the Gulf of Mexico will provide no price relief for American consumers struggling with stubbornly high energy burdens. Absent reforms, Gulf of Mexico oil and gas operations will expose American taxpayers to looming liabilities inherent in offshore oil and gas production. Indeed, today’s hearing is two days shy of the 14th anniversary of the BP Deepwater Horizon disaster, one of the largest industrial catastrophes in American history. Reforms are needed to ensure the protection of the Gulf of Mexico marine ecosystem, American taxpayers, and our national security.

My testimony has four highlights:

- A discussion of America’s *Offshore Energy Future* must include a commitment to expand offshore wind energy production.
- The BOEM *Risk Management and Financial Assurance* final rule published April 15 is a necessary first step to protect taxpayers by requiring offshore leaseholders to post increased bonding requirements to ensure they can meet their decommissioning obligations.
- BOEM must discontinue the use of categorical exclusions for offshore Gulf of Mexico oil and gas exploration, development and production plans.
- Oil export terminals subject to the Deepwater Ports Act should comply with a modernized national interest standard that takes into account the consumer and environmental effects of America’s record oil exports, including banning any such exports to adversaries like China.

Wind Power Is Essential To Secure America’s Offshore Energy Future

While Gulf of Mexico energy production has historically been exclusive to oil and gas, the Bureau of Ocean Energy Management completed its first successful lease sale for offshore wind in August 2023, with RWE submitting the winning \$5.6 million bid for OCS-G-7334 off Lake Charles, LA—suitable for a wind system to power more than 435,000 homes.² Some analysts noted the first auction results were lackluster, as U.S. states on the Gulf of Mexico haven’t implemented electricity offtake agreements and other state policy mechanisms that are driving a more robust wind energy industry on the offshore Atlantic coast of the U.S.³

² www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities

³ Kelsey Tamborrino, Gulf of Mexico offshore wind auction brings in lackluster bids, *E&E News*, August 29, 2023.

That said, one of the reasons why RWE’s bid may have been successful was because the company signed a Memorandum of Understanding with the regional electric utility, Entergy, on a plan to deliver offshore Gulf of Mexico wind to Entergy’s customers.⁴ To facilitate equitable financing of offshore wind electricity offtake agreements, it may be necessary to explore federal or regional funding of such projects, so as not to overburden a single utility’s ratepayers. Coordination between Gulf of Mexico offshore wind developers and the utilities responsible for delivering power to customers will be necessary for the industry to grow in the region. BOEM is in the midst of planning a second Gulf of Mexico offshore wind energy lease auction, possibly executing the auction by October 2024.

Following the August 2023 federal auction, Louisiana held a successful lease sale in state waters, with Mitsubishi winning a bid for its wind facility off the shores of Terrebonne and Lafourche parishes, and Vestas securing acreage off the coast of Lake Charles.⁵ This is the first phase of Louisiana’s target of generating 5 gigawatts of power from offshore wind by 2035.

The job and economic benefits of offshore wind in the Gulf of Mexico can be significant. A 2020 assessment by the U.S. Department of Energy concludes that a single, 600 MW wind facility offshore from Port Arthur, TX would support 4,470 construction jobs with \$445 million in gross domestic product (GDP) and 150 permanent jobs with \$14 million GDP annually from operation and maintenance labor, materials, and services.⁶

Gulf of Mexico ports and shipbuilding facilities can also be calibrated to serve the offshore wind industry. More than 600 employees are at work in Louisiana building the *Eco Edison*, the first U.S.-built vessel to service offshore wind farms; Dominion Energy is spending \$500 million on the first US-built wind installation vessel, the 472-foot *Charybdis*, in Brownsville, TX; and hundreds of people are working on the first US-built substation near Corpus Christi.⁷ Indeed, the U.S. Department of Treasury just issued a “clarifying” notice expanding the types of projects and areas that qualify for the Inflation Reduction Act’s bonus credit for energy communities, detailing how offshore wind projects may attribute nameplate capacity to supervisory control and data acquisition system equipment located in ports that qualify as “energy communities”.⁸

⁴ www.energynewsroom.com/news/rwe-entergy-partner-define-route-market-for-offshore-wind-in-gulf-mexico/

⁵ Heather Richards, Louisiana inks first-ever offshore wind deals, *Greenwire*, December 14, 2023.

⁶ www.nrel.gov/news/program/2020/studies-find-gulf-of-mexico-well-positioned-for-offshore-wind-development.html

⁷ www.bloomberg.com/news/features/2023-05-22/oil-workers-in-gulf-of-mexico-find-jobs-in-offshore-wind

⁸ Notice 2024-30, www.irs.gov/pub/irs-drop/n-24-30.pdf

Protecting Taxpayers From Offshore Oil and Gas Liabilities

Quite fittingly, on the deadline for Americans to file their income taxes with the IRS, the Bureau of Ocean Energy Management issued a final rule April 15 to protect taxpayers by requiring companies seeking to drill oil and natural gas in the Gulf of Mexico to put more money up front to cover future well decommissioning liabilities.⁹ The rule is necessary because oil and gas corporations have failed in their responsibility to clean up and safeguard their non-operating wells in the Gulf of Mexico. Thousands of jobs would be created by a program to properly plug and decommission orphan wells in the Gulf of Mexico.¹⁰

According to a GAO investigation released three months ago, more than 2,700 wells and 500 platforms were overdue for decommissioning in the Gulf of Mexico, with the federal government holding only \$3.5 billion in bonds from companies to cover a potential well decommissioning cost of as much as \$70 billion.¹¹ The offshore oil and gas industry has an abysmal record of cleaning up its mess, threatening the American taxpayer with billions of dollars in unfunded cleanup liabilities. While this week's final *Risk Management and Financial Assurance* rule is a good start to begin forcing oil and gas companies to cover their own cleanup and decommissioning costs, the rule doesn't go nearly far enough to hold the offshore drilling industry accountable. BOEM needs to "tighten eligibility on who can bid on a lease or acquire an existing lease in federal waters. For existing and future leases, we recommend that regardless of the lease owner's size, each and every single well, and each and every piece of infrastructure should possess financial assurance equal to the cost of decommissioning and plugging and abandonment."¹²

Nationwide, oil and gas production has soared over the past 15 years. Though domestic production has surged, exports have surged since 2015 when President Barack Obama negotiated and signed into law the repeal of the 40-year old ban on exporting oil from the United States. Exporting oil and refined petroleum products puts upward pressure on domestic prices.

Over the past three years, oil and gas giants have been earning record profits, as worldwide crude oil prices have remained above \$65 per barrel since 2021, but the industry's history of boom-bust cycles suggests that this state of affairs will now be permanent. Through the 2010s, oil and gas executives ramped up production at all costs, even though doing so created a supply glut that depressed prices. Low oil and gas prices then battered the

⁹ www.boem.gov/sites/default/files/documents/oil-gas-energy/risk-management/Risk_Rule.pdf

¹⁰ www.energypolicy.columbia.edu/wp-content/uploads/2022/04/OffshoreWells-CGEP_Report_111022.pdf

¹¹ *Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks*, GAO-24-106229, Jan 25, 2024, www.gao.gov/products/gao-24-106229

¹² Comments of Megan Milliken Biven, *True Transition*, www.regulations.gov/comment/BOEM-2023-0027-1696

industry in the late 2010s, and the drop in demand caused by the coronavirus pandemic in 2020 caused prices to plunge even further. More than 600 oil and gas companies filed for bankruptcy from 2015 through 2021, including 274 oil and gas producers, according to the energy industry law firm Haynes and Boone.¹³ Notable offshore drilling bankruptcies include Cox Operating,¹⁴ Fieldwood Energy¹⁵, Diamond Offshore¹⁶ and Noble Corp.¹⁷

In addition to failing to cover their own offshore well decommissioning liabilities, the offshore oil and gas industry has a poor track record of compliance with existing operational and safety regulations. The federal Bureau of Safety and Environmental Enforcement has fined offshore oil and gas companies more than \$46.5 million since 2000, according to Violation Tracker, a watchdog site.¹⁸ Meanwhile, more than a decade after the 2020 Deepwater Horizon disaster, members of the bipartisan commission formed to prevent a repeat of the tragedy have said their reforms were ignored and have warned that another disaster as all too possible.¹⁹

Top Recipients of Bureau of Safety and Environmental Enforcement Penalties, 2000-Present

Parent Company	Total Penalties
Chevron	\$3,712,424
APA Corporation	\$3,442,000
Talos Energy	\$2,366,154
Riverstone Holdings	\$2,277,363
W&T Offshore	\$2,193,243
Cox Oil	\$1,826,124
Freeport-McMoRan	\$1,779,350
Black Elk Energy Offshore Operations LLC	\$1,633,736
BP	\$1,341,600
Occidental Petroleum	\$1,142,125
All Penalties 2000-present	46,530,995

Source: [Violation Tracker](#)

¹³ Haynes and Boone, LLP Oil Patch Bankruptcy Monitor 2022. <https://tinyurl.com/4sdyxh3p>

¹⁴ www.nola.com/news/business/louisiana-oil-company-cox-operating-files-for-bankruptcy/article_6ee3ad4c-06f4-11ee-af49-e344fd063b30.html

¹⁵ <https://grist.org/accountability/oil-gas-bankruptcy-fieldwood-energy-petroshare/>

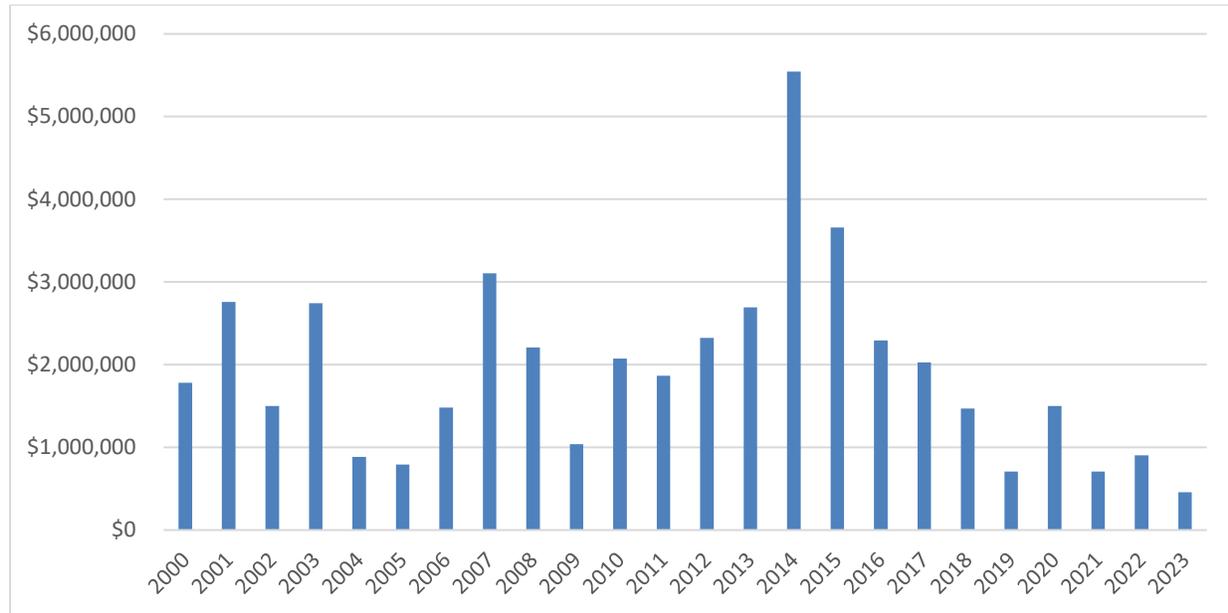
¹⁶ <https://investor.diamondoffshore.com/news-releases/news-release-details/diamond-offshore-completes-financial-restructuring>

¹⁷ <https://gcaptain.com/noble-emerges-from-chapter-11-bankruptcy/>

¹⁸ Violation Tracker, Good Jobs First <https://tinyurl.com/ykebk4p>

¹⁹ www.nytimes.com/2020/04/19/climate/deepwater-horizon-anniversary.html

Bureau of Safety and Environmental Enforcement Penalties, 2000-Present



Source: Public Citizen analysis of Violation Tracker data

In addition, oil production in the Gulf of Mexico involves massive leaks of methane. Independent scientific research documents methane emissions in the Gulf of Mexico oil operations far in excess of what industry reports to the government.²⁰ Media reports have documented unprecedented methane plumes from Gulf of Mexico oil operations.²¹

Discontinue Categorical Exclusions For Offshore Gulf Of Mexico Oil And Gas Exploration, Development And Production Plans

The U.S. Department of Interior first utilized a categorical exclusion from having a specific exploration and production plan from having to comply with National Environmental Policy Act in 1981, and its use by BOEM has proliferated since then, with BOEM using categorical exclusions for a quarter of all Gulf of Mexico exploration plans over the last several years.²² Indeed, Interior granted a categorical exclusion to BP for its Macondo well that experienced a catastrophic failure in 2010. BOEM's overreliance on categorical exclusions puts the health and safety of people and the Gulf of Mexico environment needlessly at risk. Interior should establish a policy immediately terminating the use of categorical exclusions.

²⁰ www.pnas.org/doi/10.1073/pnas.2215275120

²¹ <https://lailluminator.com/2023/02/08/growing-body-of-research-suggests-offshore-oils-methane-pollution-is-underestimated/>

²² www.biologicaldiversity.org/campaigns/offshore_oil_drilling/pdfs/BOEM-petition-re-categorical-exclusions-7-12-23.pdf

America’s Record Exports of Petroleum and Natural Gas Reward China And Place American Families At Risk Of Higher Prices

While the United States is today producing the most crude oil of any nation in history, we are also the world’s largest exporter of petroleum.²³ We exported nearly 1 million barrels per day of American crude and refined petroleum to China in 2023, smashing the all-time record.²⁴ That means one out of every ten barrels of oil the United States exported in 2023 went to China. Nearly all crude oil exports (~99%) exit the United States from the Gulf Coast, which means Gulf of Mexico oil production is logistically slated for export.

In 2015, President Barack Obama negotiated and signed legislation ending the 40-year de facto-ban on crude oil exports, retaining limited emergency authority to control exports: “The President may impose export licensing requirements or other restrictions on the export of crude oil from the United States for a period of not more than 1 year, if the President declares a national emergency and formally notices the declaration of a national emergency in the Federal Register.”²⁵

While Congress regulated natural gas as an essential utility service when it passed the Natural Gas Act of 1938—deeming the natural gas industry to be “affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest”²⁶—there is no consumer protection equivalent for petroleum. However, oil that is exported via deepwater ports are subject to the Deepwater Port Act of 1974, which requires “the construction and operation” of any deepwater port—including certain oil export terminals—must “be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality”.²⁷ Congress should clarify whether record oil exports to adversaries like China are “in the national interest”.

²³ www.eia.gov/todayinenergy/detail.php?id=61703 and www.eia.gov/todayinenergy/detail.php?id=61584

²⁴ www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MTTEXCH2&f=A

²⁵ Title I (“Oil Exports”), Section 101: www.congress.gov/114/plaws/publ113/PLAW-114publ113.pdf

²⁶ 15 USC § 717(a).

²⁷ 33 USC § 1503(c)(3).