

Lingering Threats: One Year After Gulf Oil Disaster, Offshore Drilling Still Urgently Needs Reform

A year after the explosion at the *Deepwater Horizon* rig and the oil spill that leaked more than 200 million gallons of oil and other toxic pollutants into the Gulf of Mexico, significant regulatory and policy problems with offshore drilling and production remain unaddressed. The Center for Biological Diversity has identified 10 key reforms needed to protect people, the environment and wildlife from offshore drilling in the Gulf, the Arctic and beyond.

1. Close the Loophole: Nearly all drilling projects in the Gulf of Mexico, including the Macondo well, received waivers — called “categorical exclusions” — exempting them from in-depth environmental review. In May 2010, President Obama said the government would close the loophole; that has not occurred. While deepwater projects are now given an abbreviated environmental review, the categorical exclusion is still on the books. Drilling projects can be, and are still being, approved without environmental review. For the vast majority of drilling, which is in shallow water, the Bureau of Ocean Energy Management and Enforcement (formerly the Minerals Management Service) continues to invoke categorical exclusions. Also, in a flurry to get deepwater rigs drilling again in 2011, the Obama administration explicitly stated that projects approved prior to the BP oil spill would not need new environmental analyses. **The Obama administration must eliminate the “categorical exclusion” for drilling plans and permits, and it must require regulators to commit to a full, public and expert environmental review.**

2. Recognize Oil-spill Threats: The Bureau continues to permit drilling based on flawed assumptions about the risks of drilling to the Gulf of Mexico’s marine and coastal environment. Everyone was unprepared for the *Deepwater Horizon* oil spill in part because it was assumed that at most 30,000 barrels of oil might spill over the entire lifetime of drilling leases in the Gulf and that the most likely size of a large spill was 4,600 barrels. In just one day the *Deepwater Horizon* spill eclipsed these numbers, then continued to gush for months. In 2007, the government concluded that any deepwater spills would weather and degrade before reaching shore, and thus would have a minimal impact on the environment and wildlife. Now the Bureau has conceded that catastrophic oil spills are possible in light of Deepwater Horizon. Yet it is still discounting the risks of a spill while permitting dozens of new wells in both deep and shallow water. **The Bureau must eradicate outdated assumptions that oil spills are unlikely and will have negligible impacts on the environment.**

3. Update Environmental Analyses: Like oil-spill risks, past assumptions about environmental conditions in the Gulf need revising due to the oil-spill disaster. Hundreds of miles of coastline were oiled, and numerous dolphins, sea turtles and seabirds perished in the wake of the blowout. Most of the damage has yet to be discovered. The Gulf of Mexico is a biologically rich marine habitat, but it is also a vulnerable ecosystem with endangered sea turtles, whales and other imperiled wildlife. Secretary Ken Salazar’s Department of the Interior continues to approve drilling based on environmental conditions of the Gulf of Mexico *before* the oil spill, despite having admitted that its

environmental analysis needs to be supplemented. **The Bureau must revise its environmental impact statement for offshore oil and gas activities in the Gulf in light of the damage caused by the *Deepwater Horizon* explosion and spill, and it should take this into account prior to permitting new projects.**

4. Curb Expansion of Risky Drilling: There are nearly 4,000 offshore oil and gas operations in the Gulf already, and the Obama administration is seeking to expand. Just before the *Deepwater Horizon* blowout, Interior Secretary Salazar announced plans for the largest U.S. expansion of offshore drilling in three decades. In the wake of the disaster, some of those areas are temporarily off the table, but others are still slated for new leases and development. Meanwhile, a recent report by the Interior Department revealed that more than two-thirds of offshore leases already issued in the Gulf of Mexico are inactive, without any oil exploration or production. **Offshore drilling leases are a privilege and turn public resources into private benefit, so until and unless drilling is made completely safe new leases should be off the table.**

5. Stop the Noise: Oil and gas exploration is an acoustic nightmare for marine mammals in the Gulf of Mexico, and the government has never complied with the laws intended to protect these animals from harassment and harm. Each year the Bureau hands out permits to oil companies to conduct seismic surveys to search for subsea reservoirs of oil and gas. These surveys are almost as loud as explosives, and the noise can cause hearing loss, interfere with communications, and disrupt normal breeding and feeding of sperm whales and other marine mammals. All of these permits are in plain violation of the Marine Mammal Protection Act and Endangered Species Act. **The Bureau needs to fully comply with environmental laws prior to approving noisy seismic survey activities, and should take steps to protect the most sensitive areas through closures.**

6. Reform the Oil-spill Liability Cap: Under the current Oil Pollution Act, the industry avoids full liability and compensation for damages in three ways. First, liability for damages not caused by “gross negligence, willful misconduct or violation of applicable federal regulation” is capped at \$75 million per incident. Second, the highest level of financial responsibility that an offshore drilling source must demonstrate is \$150 million, even if the entity has engaged in a grossly negligent or unlawful way. Third, the oil-spill trust fund is vastly underfunded, presently containing approximately \$2 billion. The solutions are straightforward: raise and/or eliminate the liability caps and ensure through a “pay in” or “insurance” system that all costs of spills such as the BP disaster are fully compensated. **Congress needs to lift the liability cap and require that oil companies be held fully accountable for their drilling risks.**

7. Shore Up Safety Concerns: Despite a new forensic report that the BP blowout preventer had a design defect, the Bureau has approved nearly a dozen new permits to drill in deepwater. The supposedly fail-safe blowout preventers are now known to be unable to cut through a bent pipe, and questions remain about whether they can cut through the thick joint sections that recur along the drill pipe. While the government has announced that it will develop new safety standards, it has pushed through permits *before* instating new requirements that address blowout preventer failures. **If blowout**

preventers are the last line of defense to prevent an oil spill, concerns about their performance should be addressed *prior* to signing off on new drilling.

8. Review Use of Dangerous Dispersants: Dispersants and dispersed oil have been shown to have significant negative impacts on many forms of marine life, including plankton, turtles, fish, corals and birds. Dispersants release toxic breakdown products from oil that, alone or in combination with oil droplets and dispersant chemicals, can make dispersed oil more harmful to marine life than untreated oil. Both the short-term and long-term impacts of dispersants on marine life have not been adequately tested. As acknowledged by the EPA, the long-term effects of dispersants on aquatic life are unknown. The dispersants used in response to the BP oil spill, Corexit 9500A and Corexit 9527A, are toxic chemicals with still-untold effects. They are suspected of contributing to giant underwater oil plumes that are moving through deep water and leaving a trail of damaged and dead sea life on the ocean floor. **The Obama administration must ensure that if any dispersants are approved for oil-spill response, they undergo thorough scientific review and do not contribute to added harmful impacts on wildlife, including endangered species.**

9. Place a Permanent Moratorium on Arctic Drilling: The sensitive and biologically rich Arctic is no place for offshore drilling. As we saw with the *Deepwater Horizon* oil spill, oil companies are unable to prevent or stop an oil spill that is gushing at tremendous pressure undersea. In the Arctic, whose remote, harsh and frozen waters make oil-spill response unavailable, a spill would likely be impossible to stop. A ruptured well could be inaccessible for most of the year, oil-spill response equipment is distant, and dispersants may not work in cold water. And of course, the Arctic is a pristine and biologically rich ecosystem that is already under extreme stress from climate change. **The Obama administration needs to call off plans for offshore drilling in the Arctic.**

10. Pursue Cleaner Energy: Climate change is an overarching threat to global biodiversity; we need to shift course to prevent its worst effects. If current carbon-pollution trends continue, scientists estimate that climate change will condemn one-third of the world's plants and animals to extinction by 2050 and threaten up to two-thirds with extinction by 2100. But we can save most of these plants and animals if we take decisive and rapid action to reduce greenhouse gas pollution. **Rather than drilling risky offshore oil wells, the Obama administration must rigorously regulate greenhouse gases under the Clean Air Act and shift away from dirty energy.**

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