

Arcuri Leads Efforts to Strip EPA Exemptions from Gas Industry

Amendment would hold industry to standards required of others

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Congressman Michael Arcuri (NY-24) wants the oil and gas industry to clean up its act – at least as far as storm water runoff goes. On Thursday, July 1 he offered an amendment that strips one of the exemptions given to big oil and gas during the House Committee on Transportation and Infrastructure’s consideration of the *Oil Spill Accountability and Environmental Protection Act of 2010* (HR 5629).

Arcuri’s amendment would help protect surface water from drilling site runoff contamination by removing the special exemption from the Environmental Protection Agency’s (EPA) storm water permit requirements through the Clean Water Act. A farmer has to get a storm water permit when he’s putting up a new barn, Arcuri said. So does a homebuilder developing a new subdivision. But oil and gas drillers get a free ride when constructing their well pads.

“It’s about holding oil and gas to the same environmental standards as we hold every other industry,” Arcuri said. Before 2005, EPA began issuing storm water regulations for the construction of oil and gas drilling sites. However, the Energy Policy Act of 2005 halted that process. That bill allows the oil and gas industries numerous exemptions, among them a permanent exemption for all construction activities related to oil and gas exploration and production.

That doesn’t make sense, Arcuri said. “By allowing oil and gas drillers to construct their well pads and access roads without permits, we assume they’ll take the necessary precautions to prevent storm water runoff,” he said. Erosion precautions aren’t extravagant – straw bale barriers and silt fences can prevent storm water from carrying pollutants into rivers and streams. Preventing pollution is a lot cheaper than paying for the clean-up, Arcuri noted.

“Development of natural gas in Upstate New York has the potential to bring tremendous economic benefit to the region,” Arcuri told local officials in Dryden last Tuesday. “But we need to be careful we don’t rush it and threaten our greatest natural resource – our water supply.” That type of fast-tracking led to the BP oil spill, he said.

What troubles Arcuri more than “fast-tracking” is the realization that most gas wells in this area will be drilled on agricultural and forested land. “The rate of sediment runoff on construction sites is 10 to 20 times higher than on agricultural land,” Arcuri said. “It’s 1000 to 2000 times greater than on forested land.”

Left unchecked, sediment eroded from a drill pad – or an access road – under construction runs into rivers and streams, ultimately reaching water treatment plants. Not requiring storm water permits from the gas drillers, Arcuri emphasized, means that taxpayers will end up footing the clean-up bill. And in this area, those storm water sediments end up traveling all the way to Chesapeake Bay.

“New York is one of the states, along with Pennsylvania, Maryland, Virginia, Delaware and the District of Columbia, where EPA is developing and implementing total maximum daily loads (TMDLs) for pollutants that impair the water quality of the Chesapeake Bay,” Arcuri said. Farmers and municipalities with water systems are concerned that those TMDL limits will

require them to implement costly new systems and practices to prevent the runoff of sediment and other pollutants into the watershed, he pointed out.

“If we continue to exempt the oil and gas industry – which is already constructing wells all across the watershed – from permitting requirements for storm water discharges, it will place even greater burden on our farms, taxpayers and water system rate payers,” Arcuri said. And that’s particularly unfair to local farmers who are doing their sediment control right, he added.

Arcuri believes that energy companies drilling in NY already have to comply with storm water rules established by DEC. “My amendment will make sure that drillers in other states will have to meet the same level of regulation,” he told local municipal officials. But while those regulations look good on paper, Dryden Town Supervisor Mary Ann Sumner doesn’t think they work so well in practice. Last fall, Anschutz Exploration Corporation submitted an application to drill a horizontal well into the Trenton-Black River formation. Runoff from the well pad could potentially contaminate nearby streams. When the town council pointed this out to DEC, the agency seemed to shrug off their concerns.

Still, Arcuri is confident that a federal law requiring storm water permits from drillers will help reduce sediments and other contaminants in the country’s waterways. He sees this amendment – and future legislation – as a means to force the oil and gas industry to play by the same environmental rules as every other industry.

Despite heated debate the committee passed the amendment with bipartisan support. Now, Arcuri says, the “Oil Spill Accountability and Environmental Protection Act of 2010” heads to the House floor where he expects tough opposition. Arcuri says he’s ready for a fight. Furthermore, he’s already thinking about the next piece of legislation that will strip away some of the other special exemptions the oil and gas industry enjoy.

“If we can’t do it in a single FRAC Act, we’ll make it happen piece by piece,” Arcuri said. “My goal is to ensure that oil and gas development is conducted in a manner that does not threaten public health or the environment.”