

THE SENATE  
STATE OF NEW YORK



**TONY AVELLA**  
**SENATOR, 11TH DISTRICT**

**RANKING MINORITY MEMBER**  
CITIES  
ENVIRONMENTAL CONSERVATION  
**COMMITTEES**  
AGING  
AGRICULTURE  
BANKS  
EDUCATION  
VETERANS, HOMELAND SECURITY  
& MILITARY AFFAIRS

**ALBANY OFFICE:** ☐  
ROOM 504, LOB  
ALBANY, NEW YORK 12247  
(518) 455-2210 OFFICE  
(518) 426-6736 FAX

**DISTRICT OFFICE:** ☐  
38-50 BELL BOULEVARD  
SUITE C  
BAYSIDE, NEW YORK 11361  
(718) 357-3094 OFFICE  
(718) 357-3491 FAX

**INTERNET ADDRESS:**  
AVELLA@NYSENATE.GOV

November 29, 2012

**BY FAX**

Hon. Andrew M. Cuomo  
Governor  
Executive Chamber  
State Capitol  
Albany, NY 12224

Hon. Joseph Martens  
Commissioner  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233

Dear Governor Cuomo & Commissioner Martens:

Following the Department of Environmental Conservation's (DEC) filing of a 90-day extension pursuant to the State Administrative Procedure Act (SAPA) earlier today, I am extremely concerned about the legitimacy of the health impact assessment of high-volume hydraulic fracturing that is being overseen by the New York State Department of Health.

My understanding is that DEC must file an updated set of proposed regulations, and a summary response to thousands of comments that were submitted during the public comment period on the revised Draft Supplemental Generic Environmental Impact Statement on the Oil Gas and Solution Mining Regulatory Program ("dSGEIS") as part of the filed extension. In addition, once DEC submits these revised regulations, the public will then be given a final 30 days to comment before the final regulations become effective.

Given the stated requirements of SAPA, it makes absolutely no sense for final regulations to be issued by DEC that are incapable of including any consideration of the health impacts assessment that is not expected to be completed until sometime early next year.

Page 2  
November 29, 2012

The only logical interpretation of DEC's filing of the 90-day extension under these circumstances is that the outcome of the pending health impact assessment has already been predetermined to be of no consequence on DEC's decision to allow high-volume hydraulic fracturing despite its potential of serious public health consequences.

As you have repeatedly stated throughout this process, the state's decision regarding hydrofracking must be based on science. I urge you to maintain your position in earnest by allowing the process of scientific review of the health impacts to be concluded prior to any revised regulations being proposed even if this means that the current regulatory review process expires and a new one is required to begin. We must get this decision right and it must be based on science.

Sincerely,



Tony Avella  
State Senator  
11<sup>th</sup> Senatorial District