

# EXHIBIT 55

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
STATE SUPERFUND PROGRAM  
ECL §27-1301 et seq.

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In the Matter of a Remedial Program for

**ORDER ON CONSENT AND  
ADMINISTRATIVE SETTLEMENT**  
Index No. CO 4-20160519-01

DEC Site Name: Taconic  
DEC Site No.: 442047  
Site Address: 136 Coonbrook Road  
Petersburgh, NY 12138  
Rensselaer County

Hereinafter referred to as "Site"

by: Tonoga, Inc.

Hereinafter referred to as "Respondent"  
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1. A. The New York State Department of Environmental Conservation ("Department") is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

B. The Department is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL.

C. This Order is issued pursuant to the Department's authority under, inter alia, ECL Article 27, Title 13 and ECL 3-0301.

2. The Site has been listed on the Registry of Inactive Hazardous Waste Disposal Sites in New York State (Registry) as a "Class 2" site indicating the determination of the Department and the New York State Department of Health ("NYSDOH") that contaminants disposed at the Site constitute a significant threat to public health and/or the environment. Respondent was notified of the listing by letter dated May 19, 2016.

A. On January 27, 2016, the Department added PFOA to the 6 NYCRR 597.3 list of hazardous substances by emergency regulation. Prior to this emergency rulemaking, PFOA was not regulated as a hazardous substance by New York State.

B. In February 2016, perfluorooctanoic acid ("PFOA") was detected in the drinking water of the public water system for the Town of Petersburg ("Town").

C. Rensselaer County Health Department ("RCHD") and Taconic developed a map identifying certain areas in the vicinity of the Site requiring sampling to determine whether Point of Entry Treatment ("POET") systems are required as outlined on Exhibit B ("Initial Well Investigation Area").

D. Respondent retained an engineering firm to design a granular activated carbon ("GAC") treatment system to remove PFOA from the municipal water supply. Respondent submitted an engineering design report to NYSDOH on June 17, 2016, and thereafter submitted responses to NYSDOH's comments on August 12, 2016 and August 17, 2016. On August 17, 2016 NYSDOH granted Respondent the authority to procure the treatment system ("Treatment System"), provided that Respondent submits to NYSDOH a final design package containing detailed fabrication plans and specifications which must be approved by NYSDOH prior to construction. A final design package was submitted to NYSDOH on October 31, 2016.

3. Respondent consents to the issuance of this Order without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of a hazardous substance or a hazardous waste at or from the Site; and/or (iii) an acknowledgment that a release or threatened release of a hazardous substance or a hazardous waste at or from the Site constitutes a significant threat to the public health or environment.

4. Solely with regard to the matters set forth below, Respondent hereby waives any right to a hearing as may be provided by law, consents to the issuance and entry of this Order, and agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms or the validity of data submitted to the Department by Respondent pursuant to this Order.

**NOW**, having considered this matter and being duly advised, **IT IS ORDERED THAT:**

**I. Real Property**

The Site subject to this Order has been assigned number 442047, consists of approximately 23.540 acres, and is as follows:

Subject Property Description (Exhibit "A" is a map showing the location of the Site)

Tax Map/Parcel No.: Section 97 Block 1 Lot 64 Sublot 2

98 & 136 Coonbrook Road  
Petersburgh, NY 12138  
Owner: Tonoga, Inc. d/b/a Taconic

Tax Map/Parcel No.: Section 97 Block 1 Lot 62  
123-127 Coonbrook Road  
Petersburgh, NY 12138  
Owner: Tonoga, Inc. d/b/a Taconic

## **II. Initial Work Plans and Submittals**

### **A. Remedial Investigation/Feasibility Study**

1. Within thirty (30) days after the effective date of this Order, Respondent shall submit to the Department a proposed work plan for a Remedial Investigation/Feasibility Study ("RI/FS") for the Site.

2. The Department will make a good faith effort to provide comment to Respondent within thirty (30) days of the proposed work plan being submitted to the Department. The Department shall review the work plan in accordance with 6 NYCRR 375-1.6(d), and the rights and obligations set forth therein are applicable to this Order. Upon the Department's approval of the Work Plan or Respondent's acceptance of a Department-modified work plan, Respondent shall implement the Work Plan in accordance with the provisions of Paragraphs III.A and III.B of Appendix A.

### **B. Interim Remedial Measures**

The following Interim Remedial Measures shall be commenced and carried out by Respondent in accordance with the schedules set forth below:

#### **1. Town of Petersburg ("Town") Public Water Treatment System**

a. Respondent designed, and shall install the Treatment System to remove PFOA from water produced by the Town. The Treatment System shall be that which was approved by NYSDOH pursuant to 10 NYCRR 5-1.22, and is described in paragraph 2.D above. Respondent shall pay, on a timely basis, all costs incurred to design and install the Treatment System, to conduct an assessment of the installed system, and to make any required modifications. Respondent shall also pay all necessary costs to (i) sample, monitor and maintain the Treatment System pursuant to the requirements of the Protocol Work Plan defined in subparagraph d, below, (ii) all additional incremental operation and maintenance costs of the Town Public Water System caused by the installation, operation, and maintenance of the Treatment System, and (iii) any necessary additional modifications or assessments of the Treatment System.

b. Respondent shall take delivery of the GAC tanks and other necessary equipment by November 30, 2016. Failure to meet this date shall be subject to the "Force Majeure" provisions of 6 NYCRR 375-1.5(b)(4). Within 30 days of delivery of the GAC tanks, Respondent shall install the Treatment System. Respondent shall work and cooperate with the Town and RCHD regarding all elements of design, installation, operation, and maintenance of the Treatment System.

c. Respondent has submitted to NYSDOH and RCHD for review and approval, an appropriate startup plan ("Startup Plan") for the Treatment System which sets forth how Respondent will confirm that the Treatment System has removed PFOA from the drinking water distribution system. The Startup Plan shall address the issues identified in the "NYSDEC/NYSDOH/RCHD Outline for Start Up Plan" dated October 7, 2016 and sent by electronic mail to Respondent on that date. In the event Respondent and RCHD and/or the Town agree, RCHD and/or the Town may carry out some or all of Respondent's startup obligations, and Respondent shall reimburse RCHD and/or the Town, as appropriate, for such costs.

d. Further, within thirty (30) days after the effective date of this Order, Respondent shall submit to NYSDOH and RCHD, for review and approval, a sampling, monitoring, and carbon replacement protocol ("Protocol Work Plan") for the Treatment System, which may be incorporated into an Interim Site Management Plan. The Protocol Work Plan shall provide for sampling at the water treatment plant at three locations - prior to the carbon filter system, in between the lead and lag filters, and after the lag filter. Sampling shall occur on a monthly basis for the first six months following the effective date of this Order. Thereafter, sampling shall occur as provided under the Protocol Work Plan. All sampling data shall be made available to the public in a timely manner.

e. Following installation, Respondent shall submit to NYSDOH documentation and certifications, as determined and directed by NYSDOH, sufficient to enable NYSDOH to issue a Completed Works Approval.

f. Following authorization by both NYSDOH and RCHD to operate the Treatment System, Respondent shall, in cooperation with the Town, commence operation of the Treatment System, including implementation of the approved Protocol Work Plan.

## 2. Temporary Provisions of Alternate Water

Respondent shall provide residents of the Town, who use municipal water or water from private drinking water wells, bottled water free of charge at one or more convenient locations, within the limits of the Town and approved by the Town Supervisor. Bottled water shall be provided for those who use municipal water until the

Treatment System for the municipal water supply is installed and cleared for use by NYSDOH. Bottled water shall be provided for residences or businesses within the Town using private drinking water wells until that residence's or business' well has been sampled, a Point of Entry Treatment System ("POET") has been requested, and, in the event a POET system is requested, it has been installed by Respondent, RCHD or the Department and cleared for use by RCHD, NYSDOH or the Department. No costs associated with the provision or distribution of bottled water, including the costs of Town personnel, shall be borne by the Town. Pursuant to the program, residents of the Town may receive up to, but not in excess of, five gallons of bottled water per day/per household. To the extent certain Town residents or businesses require more than five gallons of bottled water per day/per household, Respondent agrees to provide additional water after a request and a reasonable justification has been submitted to and approved by the Town Clerk. Respondent shall provide bottled water delivery services to aged and infirm Town residents after a request and reasonable justification has been submitted to and approved by the Town Clerk.

### 3. Sampling and Installation of Point of Entry Treatment Systems

a. RCHD has previously sampled private drinking water wells in the Town for PFOA using the modified test method 537, and identified wells containing such contamination. With the consent of property owners, Respondent will sample any as yet un-sampled, private water wells in the Town within Exhibit B, the Initial Well Investigation Area. Such wells shall be sampled for PFOA using the modified test method 537. Respondent shall provide the Department with laboratory analytical results for all samples.

b. Respondent shall address wells within the Exhibit "B" Initial Well Investigation Area as follows: Respondent shall design and install POET systems, as approved by the Department, NYSDOH or RCHD on (i) wells for properties identified, by tax map number, in Exhibit C, provided that the residences or businesses consent to installation, and (ii) wells for properties identified in the future, within or outside of the Initial Well Investigation Area, for which Respondent commits in writing to install POET systems, provided that the residences or businesses request installation. Respondent shall provide the Department with laboratory analytical results for samples taken after each POET system installation to enable the Department, NYSDOH or RCHD to determine whether the POET system is cleared for use as provided for in the attached Exhibit D.

c. Respondent shall operate, maintain, sample and monitor any POET it installs and those POETs identified in the attached Exhibit C in accordance with the Point of Entry Treatment Systems Sampling, Operations and Maintenance Plan attached as Exhibit D. All POETs for which the last sampling event occurred more than 4 months prior to the effective date of this Order will be sampled as soon as possible.



d. For those POET systems, if any, Respondent commits to install in the future based on additional sampling, provided the residence or business requests installation. Respondent shall design and install such POET systems, as approved by the Department, NYSDOH or RCHD; shall provide the Department with laboratory analytical results for samples taken after each POET system installation to enable the Department, NYSDOH or RCHD to determine whether the POET system is cleared for use as provided for in Exhibit D; and shall operate, maintain, sample and monitor the POET systems in accordance with Exhibit D.

e. In the event Respondent and RCHD agree, RCHD may carry out some or all of Respondent's future sampling obligations, and Respondent shall reimburse RCHD for such costs. In the event design, installation, clearance for use, operation, or maintenance of POETs agreed to be addressed by Respondent pursuant to this Paragraph is undertaken by others, Respondent shall reimburse such costs.

f. Respondent shall monitor, on an annual basis, wells within the Initial Well Investigation Area on which it has not installed POETs. Following the Department's approval of the final Remedial Investigation Report, Respondent may submit a proposal, including technical support, to discontinue annual monitoring of such wells.

### **III. Payment of State, County, and Town Costs**

A. Invoices for payment pursuant to this paragraph shall be sent to Respondent at the address designated below:

Tonoga, Inc. d/b/a Taconic  
Attention: CFO  
136 Coonbrook Road  
Petersburgh, NY 12138

B. Respondent shall pay certain past and future "State Costs" in accordance with the provisions of 6 NYCRR 375-1.5(b)(3) as modified by this paragraph and paragraph V.E. Past "State Costs" to be paid pursuant to this Order are the State costs incurred prior to the effective date of this Order associated with sampling by the State or Rensselaer County of the Town public water system, soils, and ponds, and private water wells in the Initial Well Investigation Area, surface water sampling in the Little Hoosic River, the State's personnel costs associated with the foregoing activities, and the cost of negotiating this Order. Future "State Costs" to be paid pursuant to this Order are the costs associated with overseeing, administering, or enforcing this Order, and the work performed and deliverables submitted by Respondents as required under this Order. In addition to the bases for contesting invoiced costs set forth in the provisions of 6 NYCRR 375-1.5 (b)(3)(v), Respondents may also contest an invoice pursuant to

the dispute resolution provisions in Appendix A, under the additional basis that the costs sought are not covered under this Order pursuant to this paragraph.

C. 1. Rensselaer County and the Town of Petersburg have indicated that they have incurred unreimbursed costs related to the ground water contamination alleged by the Department to be associated with the Site. Within forty-five (45) Days of the effective date of this Order, Respondent shall meet with the County and Town and negotiate for reimbursement to the County or Town of some or all of its past and future unreimbursed costs allegedly associated with the presence of PFOA in the Town Public Water System and private wells located within the Town.

2. The Department reserves any right it has, subject to the provisions of applicable law and paragraph V.E. below, to seek cost recovery for any unreimbursed costs in the event the County, Town and Respondent do not reach an agreement regarding Town costs. Respondent reserves its rights and defenses to contest any such action by the Department.

#### **IV. Communications**

A. All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Respondent shall be sent to:

Dolores A. Tuohy, Esq.  
Office of General Counsel  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233  
dolores.tuohy@dec.ny.gov

William Daigle (1 hard copy (unbound for work plans) & 1 electronic copy)  
Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233  
william.daigle@dec.ny.gov

Krista Anders (electronic copy only)  
New York State Department of Health  
Bureau of Environmental Exposure Investigation  
Empire State Plaza  
Corning Tower Room 1787  
Albany, NY 12237



krista.anders@health.ny.gov

2. Communication from the Department to Respondent shall be sent to:

Lori J. Mason, Esq.  
Corporate Counsel  
Taconic  
136 Coonbrook Road  
Petersburgh, NY 12138  
lorim@4taconic.com

Robert Stout, Esq.  
Whiteman Osterman & Hanna LLP  
One Commerce Plaza  
Albany, NY 12260  
rstout@woh.com

Tonoga, Inc. d/b/a Taconic  
Attn: Environmental Manager  
136 Coonbrook Road  
Petersburgh, NY 12138  
karent@4taconic.com

B. The Department and Respondent reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Respondent provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph I.

**V. Miscellaneous**

A. Appendix A - "Standard Clauses for All New York State Superfund Administrative Orders" is attached to and hereby made a part of this Order as if set forth fully herein.

B. In the event of a conflict between the terms of this Order (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this Order shall control. If there is a conflict between Exhibit D (including any and all attachments thereto and amendments thereof) and other terms of this Order, the terms of the Order shall control.

K. The Department reserves any right it has, subject to the provisions of applicable law, to seek additional information from Respondent regarding the Site and other areas of known or suspected contamination.

L. Respondent's periodic progress reports required by Paragraph XIII of Appendix A shall be submitted on the 15th day of the month.

DATED:

*November 10, 2016*

BASIL SEGGOS  
COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:



Robert W. Schick, P.E., Director  
Division of Environmental Remediation

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein as provided by law, and agrees to be bound by this Order.

Lari J. Mason  
Signature  
Corporate Counsel  
Title

11-10-16  
Date

STATE OF NEW YORK            )  
  ) ss:  
COUNTY OF Rensselaer    )

On the 10<sup>th</sup> day of November, in the year 2016, before me, the undersigned, personally appeared Lari J. Mason, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Tara Fisher  
Signature and Office of individual  
taking acknowledgment

TARA FISHER  
Notary Public, State of New York  
No. 0178015202  
Qualified in Rensselaer County  
Commission Expires October 26, 2018

**EXHIBIT "A"**

**Site Location Map**





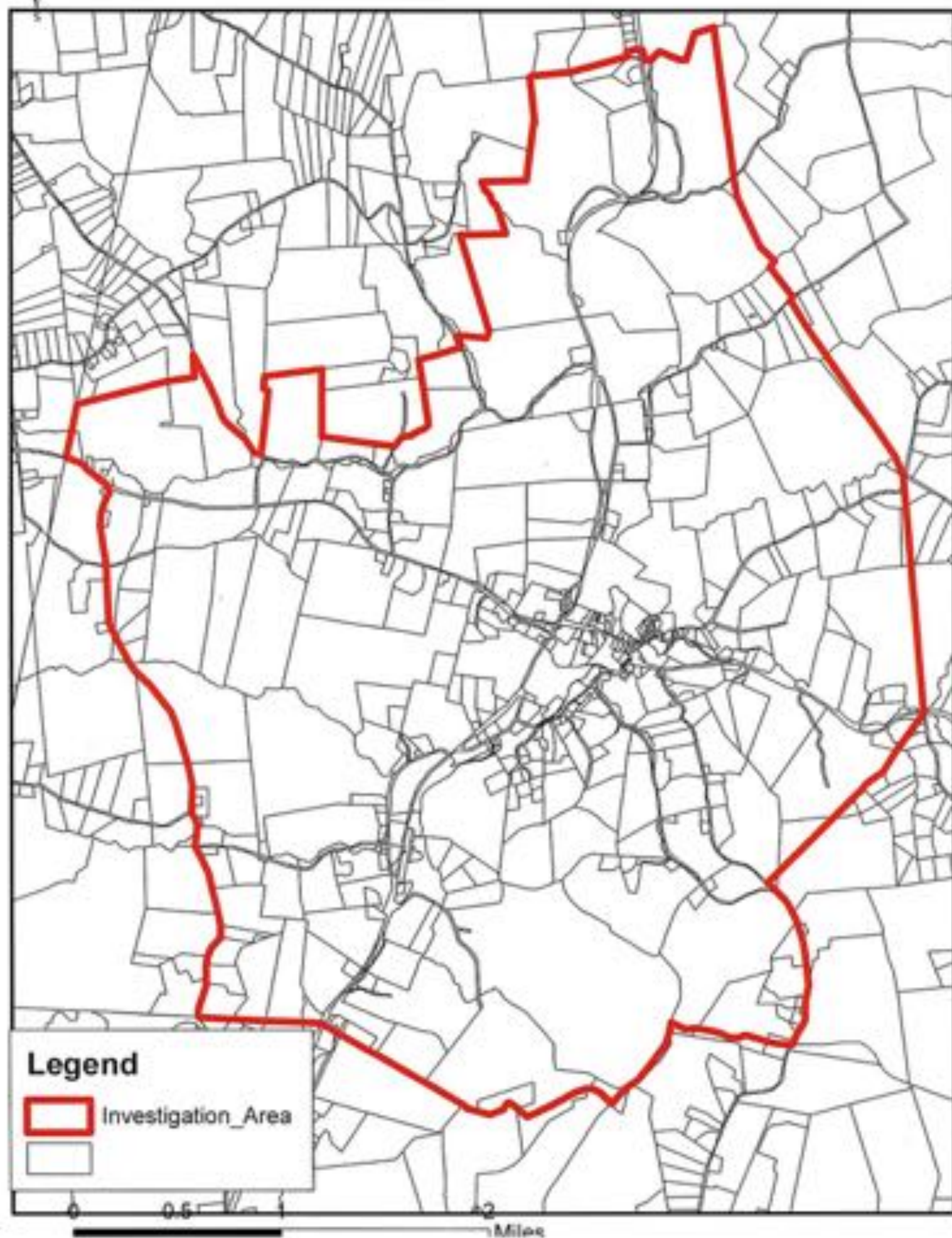
**EXHIBIT "B"**

**Map of Initial Well Investigation Area**





## Exhibit B



# EXHIBIT "C"

## Initial Taconic POET List

Tax Map No.	GAC Install	GAC Cleared
97.-1-59	3/10/2016	4/29/2016
97.-1-60	3/10/2016	5/17/2016
97.-1-57.2	sent letter	
97.4-4-26	3/22/2016	6/7/2016
97.4-4-29	3/22/2016	6/7/2016
97.4-4-30	4/19/2016	6/23/2016
97.-1-61	3/10/2016	4/15/2016
97.4-4-21	remodeling will call when ready	
97.4-4-27	3/24/2016	6/23/2016
97.-1-57.1	sent letter	
97.4-4-22	4/28/2016	7/6/2016
97.4-4-31.5	5/23/2016	8/12/2016
97.4-4-24	3/23/2016	6/23/2016
97.4-4-20	5/23/2016	8/26/2016
97.4-1-26	6/30/2016	8/2/2016
108.-1-7.1	3/24/2016	7/13/2015
97.4-4-19	4/19/2016	6/28/2016
97.4-4-23	7/14/2016	9/1/2016
108.-1-7.2	4/26/2016	7/8/2016
97.4-1-16.2	5/17/2016	8/12/2016
97.4-4-4	5/5/2016	6/28/2016
108.-2-21	5/3/2016	7/14/2016
108.-2-21	3/10/2016	4/15/2016
97.-1-50.14	5/5/2016	6/23/2016
97.4-4-31.3	5/3/2016	6/23/2016
97.-1-56	5/3/2016	6/28/2016
97.-1-47	7/14/2016	8/12/2016
97.-1-43	5/12/2016	7/6/2016
97.4-4-9	5/9/2016	7/14/2016
97.-1-22	5/5/2016	6/28/2016
97.-1-55.6	5/9/2016	7/7/2016

Tax Map No.	GAC Install	GAC Cleared
97.-1-51	7/14/2016	8/12/2016
97.4-3-9	5/12/2016	7/14/2016
97.-1-50.12	5/9/2016	7/7/2016
97.-1-17.1	6/30/2016	8/12/2016
109.-1-1.2	7/20/2016	8/29/2016
98.-1-1.1	5/17/2016	8/23/2016
109.-1-43.2	In Progress	
	11/8/2016	
77.-1-12.116		
98.-1-45	5/14/2016	7/7/2016
87.-1-21.1	5/23/2016	7/7/2016
77.-1-12.116	11/8/2016	
87.-1-15	8/31/2016	9/21/2016
97.-1-55.3	6/30/2016	8/2/2016
97.-1-29	5/31/2016	8/12/2015
77.-1-12.116	11/8/2016	
97.2-1-1.1	5/23/2016	10/20/2016
108.-2-18.112	5/23/2016	7/14/2016
108.-2-18.12	5/17/2016	7/25/2016
98.-1-52	5/28/2016	8/23/2016
97.-1-33	6/6/2016	8/24/2016
97.-1-27.1	4/21/2016	4/29/2016
108.-2-18.2	5/23/2016	7/25/2016
98.-1-51	6/30/2016	8/12/2016
97.-1-20	5/23/2016	7/14/2016
98.-1-48	sent letter	
97.-1-21	5/17/2016	8/2/2016
97.-1-55.4	6/30/2016	8/2/2016
108.-2-18.112	5/23/2016	7/14/2016
108.-1-9	5/23/2016	7/14/2016
	10/28/2016	
77.-1-12.119		
97.-1-27.1	8/3/2016	10/3/2016
97.-7-1-50.2	sent letter	
97.-1-31	7/19/2016	10/21/2016
97.-1-50.112	5/23/2016	8/12/2016
97.-1-54.2	7/26/2016	9/9/2016
108.-1-10	8/18/2016	10/3/2016
87.-1-18	6/6/2016	8/26/2016

Tax Map No.	GAC Install	GAC Cleared
97.4-3-6.1		
97.-1-17.2	8/26/2016	9/22/2016
97.-1-32.1		
98.-1-2		
97.-1-25		
98.-1-49.2		
108.-2-2	8/19/2016	9/22/2016
97.-1-54.3	8/30/2016	9/22/2016
98.-1-55		
97.-1-23		
108.-2-1.1	3/10/2016	4/15/2016
108.-2-1.211		
97.4-1-19		
97.4-4-3		
97.-1-50.13		
97.4-3-11.1		
108.-2-14.1		
97.-4-4-7		
97.4-4-5		
97.-1-54.42		
98.-1-1.2	9/9/2016	9/29/2016
97.4-3-8		
97.-1-54.1		
97.-1-28		

**EXHIBIT "D"**

**Point of Entry Treatment Systems Sampling, Operations and Maintenance Plan**



Petersburgh Area of Interest POET Sampling, Operations and Maintenance Plan		Taconic 136 Coonbrook Road Petersburgh, NY 12138
Date: October 2016	Final	

## CLEARANCE SAMPLING

Clearance of POET systems includes a visual inspection of the POET system, photo documentation, and sampling. Sampling consists of pre and post GAC samples which will be analyzed for PFOA and 5 other UCMR3 PFC contaminants, arsenic and lead. Flushing instructions will be provided to the property owner at the time of installation. (See Appendix A).

Clearance Criteria:

Analyte	Clearance Criteria	MCL	MCL Standard
6 UCMR3 PFC contaminants - Post GAC	Non-Detect (ND)	Advisory is 70 ppt	EPA 2016 Lifetime Health Advisory
Arsenic - Post GAC	Less Than 10 ppb <sup>1</sup>	10 ppb	NYSDOH 10 NYCRR Part 5; Subpart 5-1
Lead - Post GAC	Less Than 15 ppb <sup>1</sup>	Action Level is 15 ppb	NYSDOH 10 NYCRR Part 5; Subpart 5-1

Note 1: Or background based upon pre-carbon sample results.

## MAINTENANCE SAMPLING

Commencing three months after the POET system is cleared for use<sup>1</sup> and continuing on a quarterly basis thereafter, samples will be taken from private POET systems installed by Taconic to be analyzed for PFOA and the other 5 UCMR3 PFC contaminants. All sampling shall be performed in accordance with the Sample Collection Procedures (See Appendix B).

Taconic's contractor will schedule the sampling directly with the property owner. When results are obtained from the NELAP certified laboratory, results will be reported to the property owner, RCDOH, NYSDOH, NYSDEC, and Taconic.

Quarterly monitoring samples will be taken after the lead GAC filter tank and lag GAC filter tank. When the sample result after the lead tank is at or above 35 ppt PFOA, the lead tank shall be removed and the lag tank shall be used to replace the lead tank and a new GAC filter tank shall be installed in the lag position. When the sample result after the lag tank is at or above an ND level, the cause will be investigated and the GAC filter tanks will be replaced as necessary.

<sup>1</sup> All POETs for which the last sampling event occurred more than 4 months prior to the Effective Date of the Order on Consent between DEC and Tonoga, Inc. shall be sampled as soon as possible and then on a quarterly basis thereafter.



<b>Petersburgh Area of Interest</b>		<b>Taconic</b> 136 Coonbrook Road Petersburgh, NY 12138
<b>POET Sampling, Operations and Maintenance Plan</b>		
Date: October 2016	Final	

## ANNUAL SAMPLING

Raw water will be sampled annually. If the annual sample is less than 70 ppt PFOA, raw water may be sampled quarterly to determine if GAC treatment may be terminated. GAC treatment shall be terminated when such quarterly sampling results in four consecutive samples demonstrating PFOA at less than 35 ppt.

## POET OPERATION AND MAINTENANCE

POET systems contain specific equipment required by NYSDOH, as prescribed in 10 NYCRR Part 5; Appendix 75B (See Appendix C). A summary of the POET systems equipment is described in Appendix D. Aesthetic water treatment systems, such as water softeners or water distillers, are not approved POET equipment to remove PFOA, and are not monitored or maintained by Taconic's contractor.

Property owners are encouraged to change the sediment filter once every month. Spare sediment filters can be obtained from Taconic's contractor who installed the POET system. Sediment filter replacement procedures and spare sediment filters are left with the property owner when the POET system is installed (See Appendix E).

The POET's carbon tanks will be replaced, as needed, based on the results of the maintenance sampling described above. POET systems installed by Taconic will use Calgon's F600 AR Plus carbon or equivalent as approved by the NYSDEC (See Appendix F).

The POET's UV system will be visually inspected by Taconic's contractor during sampling. Cleaning of quartz sleeve will also be completed during sampling when needed. The UV bulb will be changed out once every year by Taconic's contractor. UV system inspection and maintenance will be documented on a checklist by Taconic's contractor.

Property owners are informed to contact Taconic's POET installation contractor, who is available 24 hours a day, 7 days a week, for questions about operation and maintenance of the POET system. Questions about sampling results are referred to the RCDOH and/or NYSDEC. Property owners who are away for two weeks or more will be advised to flush their POET system for at least 45 minutes upon their return, to destroy any possible bacteria that may have formed.

<b>Petersburgh Area of Interest</b>		Taconic 136 Coonbrook Road Petersburgh, NY 12138
<b>POET Sampling, Operations and Maintenance Plan</b>		
Date: October 2016	Final	

## APPENDIX A

### FLUSHING INSTRUCTIONS

# RENSSELAER COUNTY DEPARTMENT OF HEALTH

KATHLEEN M. JIMENO  
COUNTY EXECUTIVE



MARTYAN WACHUNAS  
PUBLIC HEALTH DIRECTOR

## How To Flush Your Home's Plumbing System

Please follow the procedures below to properly flush your system. Your system will be inspected by the Rensselaer County Department of Health to ensure that it is working properly. In addition, we will take a sample of your water for testing and provide you with the results. We ask that you do not drink, use your water for cooking or brush your teeth with it until you have received documentation from us and that your water is safe for all uses.

Follow these steps to ensure your water pipes are adequately flushed after the GAC (granular activated carbon) system has been installed in your home:

### Step 1. Flush cold-water system

- Open all indoor cold-water faucets, including every sink, shower, and bathtub.
- Run the cold water for 5 minutes.
- Shut off all cold-water faucets.

### Step 2. Flush hot-water system

- Open all hot-water faucets, including every sink, shower, and bathtub.
- Run hot water for 15 minutes. This will replace the water in your hot water tank with filtered water.
- Shut off all hot-water faucets.

### Step 3. Flush fixtures and appliances

- Flush each toilet at least once. There is no limit on using or flushing toilets during the flushing process.
- Refrigerator water lines and ice makers:
  - Flush refrigerator water dispensers for 5 minutes.
  - Consider replacing any refrigerator water filters, following manufacturer instructions.
  - Discard ice from your freezer. If you have an automatic ice maker, make/discard 5 batches of ice.
  - Clean the ice container with warm water and soap before using it.
- Other water-using appliances:
  - Run dishwashers, washing machines and appliances through one cycle while empty.
  - Discard water; clean your coffee makers, humidifiers, oral, medical or health care devices, or other appliances that may have had contact with contaminated water. Contact the manufacturer if you have questions about cleaning.

### Step 4. In-home filtration units, filtered water dispensers (point of use devices), and water softeners

- Take steps to clean water filtration systems, backwash (regenerate) water softeners, and consider replacing filters. Follow manufacturer instructions.

Do not drink, use your water for cooking OR brush your teeth until you have received documentation from the Rensselaer County Department of Health stating that it is acceptable for use.

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## **APPENDIX B**

### **SAMPLE COLLECTION PROCEDURES**

Samples are to be analyzed for PFOA and the 6 UCMR3 contaminants, using the modified EPA Method 537, which reports results down to 2 ppt.

- Coolers filled with HDPE sample bottles, blank labels, and a blank COC form will be obtained from the NELAP certified laboratory.
- Place bag of ice inside cooler. No need to empty the ice out of the bag. Cannot use blue ice.
- PFOA requires larger than typical amounts of sample. For each sample point, two bottles must be filled for PFOA.
- Bottles do not contain preservative and do not use Teflon lined caps.
- Must wear nitrile rubber gloves when collecting sample. Change gloves after each sample point.
- Sampler must avoid contact with aluminum foil, pre-wrapped foods and snacks, Post-It® Notes, water-resistant papers, permanent markers (ie. Sharpie®), and avoid wearing water-resistant/proof clothing, jackets, gloves, shoes, etc. (ie. Gore-Tex®).
- Remove any filters, diffusers, etc., on sample points.
- Flush sample point for at least 3 minutes. When sampling POET systems, first sample post GAC, followed by pre GAC.
- Fill out sample bottle label with regular ink pen. Do not use permanent inks.
- Complete and sign the Chain of Custody form.

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# APPENDIX C

NYSDOH 10 NYCRR PART 5; APPENDIX 75B

## 10 NYCRR APPENDIX 75-B

### (IWS Treatment Devices)

**Effective Date:** 12/01/90

**Title:** Appendix 75-B.1 - Introduction

Section 75-B.1 Introduction. This appendix provides design and performance standards for water treatment devices approved for use on individual household water supplies.

**Title:** Appendix 75-B.2 - Activated carbon treatment systems

Section 75-B.2 Activated carbon treatment systems. These systems consist of filtration equipment which use activated carbon to remove organic chemicals from individual water supplies. They also may be used to improve the aesthetic quality of drinking water. These systems are normally installed between the water source and the first point of use in the water distribution system.

(a) When an activated carbon filter unit is installed to treat an individual water supply containing organic chemicals, it must meet all of the following conditions:

(1) The units are installed in-line and serve the whole household. Faucet or undersink units shall not be used for the removal of organic chemicals.

(2) The treatment unit must be capable of processing water at a flow rate of at least five gallons per minute (gpm). Flow rates may be reduced if additional pressurized storage is provided after the treatment unit to insure the system will provide at least five gpm of treated water to the household continuously for a minimum of 20 minutes.

(3) The maximum application rate shall be 10 gpm per square foot of activated carbon surface area. Flow rates shall be controlled by a flow limiting device.

(4) The minimum empty bed contact time shall be three minutes. This should be accomplished with at least two filter units of equal size placed in series.

(5) Only virgin carbon shall be used. The cylinder should be recharged at a point outside the residence and the spent activated carbon properly disposed of by the vendor.

(6) Disinfection must be provided after the activated carbon unit. The preferred method of disinfection is an ultraviolet unit with a minimum rating of five gpm. The unit shall have a fail-safe device that detects the intensity of the ultraviolet light and automatically shuts down the system when the intensity decreases to below the minimum effective level specified for the unit. A manual or automatic wipe must be provided. An alternate method of disinfection would be sodium hypochlorite. If sodium hypochlorite is used, contact time adequate to eliminate pathological organisms must be provided after the point of injection and prior to consumption. The local health unit having jurisdiction may allow the use of activated carbon units without disinfection upon the adoption of a



formal procedure for the approval of treatment systems installations, and notification to homeowners of the need for disinfection.

(7) Treatment units capable of backwashing shall only use treated water for that purpose. Backwashing should be at a minimum flow rate of 10 gpm for at least two minutes. The backwashing must be accomplished in a manner that does not create a cross-connection. The wastewater shall not be discharged to the ground surface but may be discharged to a septic system.

(8) All components of treatment units must safely withstand the highest water pressure in the system.

(9) The following must be provided:

(i) A flow meter to record total flow.

(ii) Sampling taps for raw, partially treated and treated water.

(iii) Adequate valving to isolate the various components, and for backwashing of filters.

(iv) Only nontoxic materials and coatings.

(v) Ease of access to all components.

(vi) Prefiltration where appropriate to remove turbidity and bacteria.

(vii) Pressure gauges before and after the activated carbon unit.

(b) Other than whole-house units. Because organic chemicals can be inhaled and absorbed through the skin during baths and showers, the following types of point-of-use activated carbon units are not suitable for use where the water contains organics:

(1) Pour-through units - a stand-alone device, not attached to the water supply system, and normally manually operated.

(2) Faucet-mount units - a unit mounted directly at the outlet of an individual tap or faucet.

(3) In-line, one-tap units - a unit mounted in a supply line that serves only one tap or faucet.

(4) Line-bypass units - an in-line unit that serves a separate tap or faucet intended for drinking water use only.

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## APPENDIX D

### NYSDEC POET SYSTEM EQUIPMENT GUIDE

**Schematic Flow Diagram for Point-of-Entry Treatment (POET) Systems Installed, Monitored, and Maintained by Taconic**

The diagram illustrates the flow of water through a POET system. Key components and labels include:

- EXISTING HARDWARE:** Water Tank, Pump, Pressure Tank.
- Pre-Filter Cartridge:** A yellow box labeled "THIS IS THE PRE-FILTER: CHANGE FILTER CARTRIDGE HERE".
- Reverse Osmosis Membrane Units:** Two cylindrical units labeled "Reverse Osmosis Membrane Units".
- Existing Water Supply Units:** Two cylindrical units labeled "Existing Water Supply Units".
- Flow Restrictor:** A device that controls the flow rate of water.
- Valves and Gauges:** Various valves (e.g., "Shut Valve", "Bypass Valve", "Flow Restrictor Valve") and gauges (e.g., "Existing Pressure Gauge (if pressure)", "Flow Meter") are shown throughout the system.
- TO HOUSE PLUMBING:** The final destination for the treated water.

Monthly pre-filter replacement is recommended as an important part of keeping the system operating properly and maintaining good water pressure. The pre-filter removes sand, sediment, and other natural small particles that may come in from the well. Maintaining a clean pre-filter also reduces the need for in-home service by Taconic representatives.

Taconic will provide a free annual supply of pre-filters and show you how and when to complete the replacement.

Maintenance activities Taconic must perform include routine sampling, periodic replacement of the GAC tanks, cleaning or replacing the UV light quartz sleeve as needed, system inspection and checking for leaks, and checking proper valve settings and pressure.

- Before being away for more than 2 weeks
- To arrange for repair—do not attempt any system or plumbing repairs yourself
- When you need more pre-filters
- If you have any questions





***This guide describes the main components and benefits of the Point-Of-Entry Treatment (POET) System installed in your home or building by TACONIC.***

*The purpose of the water treatment is to remove certain contaminants that may be in the drinking water entering area homes and buildings. The water treatment systems installed are specifically designed to address Perfluorinated compounds (PFCs), including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).*

**How the System Works**

POETs are installed to filter and treat all water as it enters your home or building. As shown on the system flow diagram (back page), POETs filter and treat water using a small pre-filter followed by two tanks of granular activated carbon (GAC). In certain cases, smaller point-of-use treatment systems (POUTs) attach to faucets and fixtures where your water is dispensed.

POETs are designed to filter and disinfect groundwater (well water) for use in residential or commercial properties. Via your well pump, groundwater is piped into an existing pressure tank and then through an installed pre-filter (sediment trap) to remove sand and other natural small particles that may come in with the water.

As shown on the flow diagram, the water continues through the pre-filter and a flow restrictor, and then through a flow meter to measure how much water is flowing through the system. From there, the water continues into the first of two tanks filled with GAC to begin cleaning the water. The second GAC tank acts as a backup to provide redundancy to the filtering process. Next, the water may flow into a water softener if a softener was already in place before the POET or POUT system was added.

Finally, the water passes through an ultraviolet (UV) unit where the water is disinfected before it flows directly into the existing plumbing for use within the residence or commercial building.

**Benefits of Water Treatment**

POET and POUT systems control a wide variety of contaminants in drinking water and often use the same technology found in large centralized treatment plants, but at a much smaller scale.

This established technology reduces the amount of organic contaminants, controls turbidity (cloudiness of the water), and removes micro-organisms and many other contaminants. Aesthetic factors such as taste, odor, or color can also be improved with treatment.

**Water Quality Testing**

Taconic representatives will collect water from the "sampling taps" installed in the system at a minimum of once per year. Systems with higher incoming concentrations will initially be sampled more frequently. This routine sampling effort will provide data for the Taconic to determine the lifespan of the carbon in the GAC tanks. The sampling and maintenance frequency is based on your specific well water and treatment system, and depends not only on sample results, but also how long the system components are performing as intended.

Additional follow-up visits to replace GAC tanks may be scheduled when necessary. Please note that the periodic sampling and maintenance schedule may change in the future based upon your sampling results, so that the system continues to successfully remove PFOA and PFOS from your drinking water.

**Granular Activated Carbon Replacement**

When water testing results indicate that a GAC tank needs to be changed, Taconic representatives will promptly schedule a visit to perform the change out. This process typically involves installing a fresh GAC tank to replace the second tank in the system, and moving up the second tank to be first in line on the system. You do not need to flush the line prior to water use after the GAC tanks are replaced.

**Maintenance at No Cost to You**

Maintenance of POET systems in homes and commercial buildings is expected to continue until sampling data indicate well water treatment is no longer necessary. As the environmental investigation in the area continues and data indicate that a treatment system is no longer needed, Taconic will either remove the system or turn over the system to the property owner, whichever the owner prefers. Property owners are not expected to pay the cost of POET system maintenance and water sampling and analysis.

**QUESTIONS?  
PLEASE CALL THE  
TACONIC (Wel-Dun) POET HOTLINE  
(available 24/7) at 1-800-626-3306**

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## APPENDIX E

### NYSDEC POET SYSTEM MAINTENANCE GUIDE



# MAINTENANCE GUIDE POINT-OF-ENTRY WATER TREATMENT SYSTEM

## How to Change the Pre-Filter

**Step 1:** Place a bucket under the pre-filter.

**Step 2:** Turn off the water supply using the two valve levers located on either side of the pre-filter (see diagram above for location of pre-filter and levers).

**Step 3:** Press down on the pressure relief button (if present on top of the housing cap/lid) to relieve pressure inside the filter container.

**Step 4:** Slowly unscrew (turn to the left) the filter container from below the housing. Do this by hand or use the filter wrench supplied with system. A small amount of water may come out of the housing into the bucket. If the O-ring gasket comes loose, put it back in place around the top of the cartridge. If the O-ring is damaged, call the Taconic (Wel-Dun) POET Hotline for a replacement.

**Step 5:** Remove the used filter cartridge and discard it in your normal trash. Rinse and clean the inside of the filter container, if needed (there may be some natural sediment in the bottom).

**Step 6:** Insert a new filter cartridge into the filter container, making sure the cartridge is centered and slips over the small standpipe inside the container or attached to the housing cap/lid.

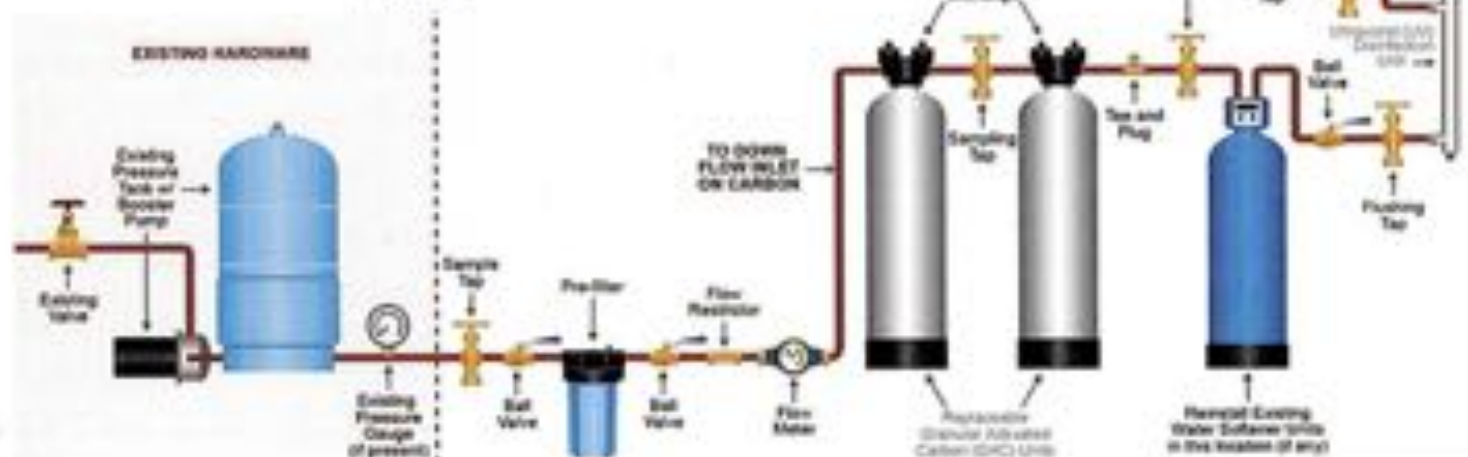
**Step 7:** Make sure the new filter is centered, and then screw the filter container back onto the housing cap/lid. Hand tighten it or use the filter wrench to tighten. **DO NOT OVER-TIGHTEN.**

**Step 8:** Slowly turn on the water supply again and allow the filter housing to fill with water.

**Step 9:** Press down on the pressure relief button again (if present) to release air that may be trapped inside.

**Step 10:** Check and inspect for leaks until the unit or system is pressurized. If water leaks from between the housing cap/lid and the filter container, please check that the O-ring gasket is in place and not damaged, and check that the filter was centered and fits easily between the filter container and the housing cap/lid.

**Schematic Flow Diagram for  
Point-of-Entry Treatment (POET) Systems  
Installed, Monitored, and Maintained by  
Taconic**



### WHEN TO CALL THE TACONIC (Wel-Dun) POET HOTLINE 1-800-626-3306 (24/7)

- Before being away for more than 2 weeks
- To arrange for repair—do not attempt any system or plumbing repairs yourself
- When you need more pre-filters
- If you have any questions

**THIS IS THE  
PRE-FILTER.  
CHANGE FILTER  
CARTRIDGE  
HERE**

### WHEN TO CHANGE THE PRE-FILTER

- At least monthly so the system operates properly and to reduce the frequency of in-home service by Taconic representatives
- When water pressure drops, which means the filter may be clogged with natural sediment from the well
- Prior to leaving the building for more than 2 weeks—if you are not home during winter months, call the Taconic Hotline for instructions



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# APPENDIX F

## CALGON F600AR PLUS SAFETY DATA SHEET

# Filtrisorb 600 AR+ 12X40

## Safety Data Sheet



Issue: 04/20/2015  
Supersedes: 12/30/2011  
Version: 1.0

### SECTION 1: Identification of the Substance/Mixture and of the Company/Undertaking

#### 1.1. Product Identifier

Product name : Filtrasorb 600 AR+ 12X40  
Product form : Substance  
CAS No : 7440-44-0  
Product code : 12124  
Synonyms : Activated Carbon

#### 1.2. Relevant identified uses of the substance or mixture and uses advised against

Use of the substance/mixture : Adsorbent

#### 1.3. Details of the supplier of the safety data sheet

Calgon Carbon Corporation  
P.O. Box 717  
Pittsburgh, PA 15230  
412-787-6700

#### 1.4. Emergency telephone number

Emergency number : CHEMTREC (24 HRS): 1-800-438-6300

### SECTION 2: Hazards Identification

#### 2.1. Classification of the substance or mixture

##### GHS-US classification

Combustible Dust: H232

*Not classified as a simple asphyxiant. Product does not displace oxygen in the ambient atmosphere, but slowly adsorbs oxygen from a confined space when wet. Under conditions of anticipated and recommended use, product does not pose an asphyxiation hazard.*

#### 2.2. Label elements

##### GHS-US labeling

Signal word (GHS-US) :

Warning

Hazard statements (GHS-US) :

H232 - May form combustible dust concentrations in air

#### 2.3. Other hazards

Other hazards not contributing to the classification :

Wet activated carbon can deplete oxygen from air in enclosed spaces. If use in an enclosed space is required, procedures for work in an oxygen deficient environment should be followed.

#### 2.4. Unknown acute toxicity (GHS-US)

No data available

### SECTION 3: Composition/Information on Ingredients

#### 3.1. Substance

Name	Product Identifier	%
Activated Carbon	CAS No: 7440-44-0	~ 100

#### 3.2. Mixture

Not applicable

### SECTION 4: First Aid Measures

#### 4.1. Description of first aid measures

##### First-aid measures general

If exposed or concerned, get medical attention/advice. Show this safety data sheet to the doctor in attendance. Wash contaminated clothing before re-use. Never give anything to an unconscious person.

##### First-aid measures after inhalation

IF INHALED: Remove to fresh air and keep at rest in a comfortable position for breathing.

##### First-aid measures after skin contact

IF ON SKIN (or clothing): Remove affected clothing and wash all exposed skin with water for at least 15 minutes.

##### First-aid measures after eye contact

IF IN EYES: Immediately flush with plenty of water for at least 15 minutes. Remove contact lenses if present and easy to do so. Continue rinsing.

# Filtrisorb 600 AR+ 12X40

Product Code: 12124

## Safety Data Sheet

First-aid measures after ingestion : IF SWALLOWED: Rinse mouth thoroughly. Do not induce vomiting without advice from poison control center or medical professional. Get medical attention if you feel unwell.

### 4.2. Most important symptoms and effects, both acute and delayed

Symptoms/injuries : Not expected to present a significant hazard under anticipated conditions of normal use. However, dust may cause irritation and redness of the eyes, irritation of the skin and respiratory system. The effects of long-term, low-level exposures to this product have not been determined.

### 4.3. Indication of any immediate medical attention and special treatment needed

No additional information available

## SECTION 5: Firefighting Measures

### 5.1. Extinguishing media

Suitable extinguishing media : Water spray, Carbon dioxide, Dry chemical, Foam, Sand.  
Unsuitable extinguishing media : None known.

### 5.2. Special hazards arising from the substance or mixture

Fire hazard : Dust may be combustible under specific conditions. May be ignited by heat, sparks or flames.  
Explosion hazard : Dust may form explosive mixture in air.  
Reactivity : No dangerous reactions known under normal conditions of use. Carbon oxides may be emitted upon combustion of material.

### 5.3. Advice for firefighters

Firefighting instructions : Wear NIOSH-approved self-contained breathing apparatus suitable for the surrounding fire. Use water spray or fog for cooling exposed containers. Evacuate area.

## SECTION 6: Accidental Release Measures

### 6.1. Personal precautions, protective equipment and emergency procedures

General measures : Evacuate area. Keep upwind. Ventilate area. Spill should be handled by trained clean-up crews properly equipped with respiratory equipment and full chemical protective gear (see Section 8).

#### 6.1.1. For non-emergency personnel

No additional information available

#### 6.1.2. For emergency responders

No additional information available

### 6.2. Environmental precautions

Prevent entry to sewers and public waters. Avoid release to the environment. Product is not soluble, but can cause particulate emission if discharged into waterways. Close all entrances to sewers and drains to avoid introducing material to waterways. Notify authorities if product enters sewers or public waters.

### 6.3. Methods and material for containment and cleaning up

For containment : Sweep or shovel spills into appropriate container for disposal. Minimize generation of dust.  
Methods for cleaning up : Sweep or shovel spills into appropriate container for disposal. Minimize generation of dust. Dispose of material in compliance with local, state, and federal regulations.

### 6.4. Reference to other sections

No additional information available

## SECTION 7: Handling and Storage

### 7.1. Precautions for safe handling

Precautions for safe handling : Avoid dust formation. Avoid contact with skin, eyes and clothing. Do not handle until all safety precautions have been read and understood. Wash hands and other exposed areas with mild soap and water before eating, drinking or smoking and when leaving work. Keep away from sources of ignition - No smoking.

### 7.2. Conditions for safe storage, including any incompatibilities

Storage conditions : Keep container tightly closed in a cool, dry, and well-ventilated place. Keep away from ignition sources.

# Filtrosorb 600 AR+12X40

Product Code: 12134

## Safety Data Sheet

### SECTION 8: Exposure Controls/Personal Protection

#### 8.1. Control parameters

##### Activated Carbon (7440-44-0)

OSHA PEL (TWA) (mg/m<sup>3</sup>)

≤ 5 (Respirable Fraction)

≤ 15 (Total Dust)

\*Exposure limits are for dust or nuisance dust. No specific exposure limits have been established for this activated carbon product by OSHA or ACGIH.

#### 8.2. Exposure controls

##### Appropriate engineering controls

- Provide adequate general and local exhaust ventilation. Use process enclosures, local exhaust ventilation, or other engineering controls to control airborne levels below recommended exposure limits. Use explosion-proof equipment with flammable materials. Ensure adequate ventilation, especially in confined areas. Wet activated carbon can deplete oxygen from air in enclosed spaces. If use in an enclosed space is required, procedures for work in an oxygen deficient environment should be followed.

##### Personal protective equipment

- Gloves. Safety glasses. Insufficient ventilation: wear respiratory protection.



##### Hand protection

- Gloves should be classified under Standard EN 374 or ASTM F1295. Suggested glove materials are: Neoprene, Nitrile/butadiene rubber, Polyethylene, Ethyl vinyl alcohol laminate, PVC or vinyl. Suitable gloves for this specific application can be recommended by the glove supplier.

##### Eye protection

- Use eye protection suitable to the environment. Avoid direct contact with eyes.

##### Skin and body protection

- Wear long sleeves, and chemically impervious PPE/covers to minimize bodily exposure.

##### Respiratory protection

- Use NIOSH-approved dust/particulate respirator. Where vapor, mist, or dust exceed PELs or other applicable OELs, use NIOSH-approved respiratory protective equipment.

### SECTION 9: Physical and Chemical Properties

#### 9.1. Information on basic physical and chemical properties

Physical state	Solid
Appearance	Granular, powder, or pelletized substance
Color	Black
Odor	Odorless
Odor threshold	No data available
pH	No data available
Relative evaporation rate (butylacetate = 1)	Not applicable
Melting point	Not applicable
Freezing point	Not applicable
Boiling point	Not applicable
Flash point	No data available
Auto-ignition temperature	> 220 °C
Decomposition temperature	No data available
Flammability (solid, gas)	> 220 °C
Vapor pressure	Not applicable
Relative vapor density at 20 °C	Not applicable
Apparent density	0.4 - 0.7 g/cc
Solubility	Insoluble
Log Pow	Not applicable
Log Kow	Not applicable
Viscosity, kinematic	Not applicable
Viscosity, dynamic	Not applicable
Explosive properties	No data available
Oxidizing properties	No data available
Explosive limits	No data available

# Filtrosorb 600 AR+12X40

Product Code: 12124

## Safety Data Sheet

### 9.2. Other information

No additional information available

## SECTION 10: Stability and Reactivity

### 10.1. Reactivity

No dangerous reactions known under normal conditions of use.

### 10.2. Chemical stability

Stable under use and storage conditions as recommended in section 7.

### 10.3. Possibility of hazardous reactions

None known.

### 10.4. Conditions to avoid

Avoid dust formation, heat, ignition sources. Exposure to high concentrations of organic compounds may cause bed temperature to rise.

### 10.5. Incompatible materials

Alkali metals, Strong oxidizing agents.

### 10.6. Hazardous decomposition products

Carbon monoxide (CO), carbon dioxide (CO<sub>2</sub>)

## SECTION 11: Toxicological Information

### 11.1. Information on toxicological effects

Acute toxicity : Not classified

#### Activated Carbon (1448-44-8)

LD50 oral rat : > 2000 mg/kg

Skin corrosion/irritation : Not classified

Serious eye damage/irritation : Not classified

Respiratory or skin sensitization : Not classified

Germ cell mutagenicity : Not classified

Carcinogenicity : Not classified

#### Silica: Crystalline, quartz (14808-60-7)

IARC group : 1 - Carcinogenic to humans

The International Agency for Research on Cancer (IARC) has classified "silica dust, crystalline, in the form of quartz or cristobalite" as carcinogenic to humans (group 1). However these warnings refer to crystalline silica dusts and do not apply to solid activated carbon containing crystalline silica as a naturally occurring, bound impurity. As such, we have not classified this product as a carcinogen in accordance with the US OSHA Hazard Communication Standard (29 CFR §1910.1200) but recommend that users avoid inhalation of product in a dust form.

Reproductive toxicity : Not classified

Specific target organ toxicity (single exposure) : Not classified

Specific target organ toxicity (repeated exposure) : Not classified

Aspiration hazard : Not classified

Symptoms/injuries : Not expected to present a significant hazard under anticipated conditions of normal use. However, dust may cause irritation and redness of the eyes, irritation of the skin and respiratory system. The effects of long-term, low-level exposures to this product have not been determined.

## SECTION 12: Ecological Information

### 12.1. Toxicity

No additional information available

### 12.2. Persistence and degradability

No additional information available

### 12.3. Bioaccumulative potential

No additional information available



# Filtrosorb 600 AR+ 12X40

Product Code: 12124

## Safety Data Sheet

### 12.4. Mobility in soil

No additional information available

### 12.5. Other adverse effects

No additional information available

## SECTION 13: Disposal Considerations

### 13.1. Waste treatment methods

Waste treatment and disposal methods

Vacuum or shovel material into a closed container. Dispose in a safe manner in accordance with local/national regulations. Do not allow the product to be released into the environment. Subject to Calgon Carbon technical approval, non-powdered activated carbons may be reactivated to allow recycle and reuse.

Additional information

Activated carbon is an adsorbent media; hazard classification is generally determined by the adsorbate. Consult U.S. EPA guidelines listed in 40 CFR 261.3 for more information on hazardous waste disposal.

## SECTION 14: Transport Information

### 14.1. In accordance with DOT

Not classified as hazardous for domestic land transport

UN-No. (DOT)	None on finished product
DOT NA no.	None on finished product
Proper Shipping Name (DOT)	Not regulated
Department of Transportation (DOT) Hazard Classes	None on finished product
Hazard labels (DOT)	None on finished product
Packing group (DOT)	None on finished product
DOT Quantity Limitations Passenger aircraft (49 CFR 173.27)	None on finished product

### 14.2. Transport by sea

Not classified as hazardous for water transport

IMO IMDG	
UNNA Identification Number	None on finished product
UN- Proper Shipping Name	Not regulated
Transport Hazard Class	None on finished product

### 14.3. Air transport

Not classified as hazardous for air transport

ICAO/IATA	
UNNA No.	None on finished product
UN- Proper Shipping Name	Not regulated
Transport Hazard Class	None on finished product
Packing Group	None on finished product
Marine Pollutant	None on finished product

### 14.4. Additional information

Other information	Under the UN classification for activated carbon, all activated carbons have been identified as a class 4.2 product. However, this product type or an equivalent has been tested according to the <u>United Nations Transport of Dangerous Goods</u> test protocol for a "self-heating substance" ( <u>United Nations Transportation of Dangerous Goods, Manual of Tests and Criteria, Part III, Section 33.3.1.6 - Test Method for Self-Heating Substances</u> ) and it has been specifically determined that this product type or an equivalent does not meet the definition of a self-heating substance (class 4.2) or any other hazard class, and therefore should not be listed as a DOT hazardous material.
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# Filtrosorb 600 AR+ 12X40

Product Code: 12124

## Safety Data Sheet

### SECTION 15: Regulatory Information

#### 15.1. US Federal regulations

Filtrosorb 600 AR+ 12X40

All chemical substances in this product are listed in the EPA (Environmental Protection Agency) TSCA (Toxic Substances Control Act) inventory or are exempt

Cobalt (7440-48-4)

Listed on the United States TSCA (Toxic Substances Control Act) inventory  
Listed on United States SARA Section 313

SARA Section 313 - Emission Reporting 0.1 %

#### 15.2. International regulations

No additional information available

#### 15.3. US State regulations

##### California Proposition 65

WARNING: This product contains, or may contain, trace quantities of a substance(s) known to the state of California to cause cancer, birth defects, or other reproductive harm.

Silica: Crystalline, quartz (14808-60-7)				
U.S. - California - Proposition 65 - Carcinogens List	U.S. - California - Proposition 65 - Developmental Toxicity	U.S. - California - Proposition 65 - Reproductive Toxicity - Female	U.S. - California - Proposition 65 - Reproductive Toxicity - Male	No significance risk level (NSRL)
Yes	No	No	No	NA
Cobalt (7440-48-4)				
U.S. - California - Proposition 65 - Carcinogens List	U.S. - California - Proposition 65 - Developmental Toxicity	U.S. - California - Proposition 65 - Reproductive Toxicity - Female	U.S. - California - Proposition 65 - Reproductive Toxicity - Male	No significance risk level (NSRL)
Yes	No	No	No	NA
Titanium dioxide (13463-67-7)				
U.S. - California - Proposition 65 - Carcinogens List	U.S. - California - Proposition 65 - Developmental Toxicity	U.S. - California - Proposition 65 - Reproductive Toxicity - Female	U.S. - California - Proposition 65 - Reproductive Toxicity - Male	No significance risk level (NSRL)
Yes	No	No	No	NA

Aluminum oxide (1344-28-1)				
U.S. - New Jersey - Right to Know Hazardous Substance List				
U.S. - Massachusetts - Right to Know List				
U.S. - Pennsylvania - RTK (Right to Know) - Environmental Hazard List				
Calcium sulfate (7778-18-9)				
U.S. - Massachusetts - Right to Know List				
U.S. - New Jersey - Right to Know Hazardous Substance List				
U.S. - Pennsylvania - RTK (Right to Know) List				
Silica: Crystalline, quartz (14808-60-7)				
U.S. - New Jersey - Right to Know Hazardous Substance List				
U.S. - Pennsylvania - RTK (Right to Know) List				
U.S. - Massachusetts - Right to Know List				

### SECTION 16: Other information

Indication of changes

Revision Date

Other information

For internal use only

Prepared according to Federal Register / Vol. 77, No. 58 / Monday, March 26, 2012 / Rules and Regulations

Revision 1.0: New SDS Created

04/02/2018

Author: CJS

PR #1

# Filtrisorb 600 AR+ 12X40

Product Code: 12124

## Safety Data Sheet

### MFPA health hazard

- 0 - Exposure under fire conditions would offer no hazard beyond that of ordinary combustible materials.

### MFPA fire hazard

- 1 - Must be preheated before ignition can occur.

### MFPA reactivity

- 0 - Normally stable, even under fire exposure conditions, and are not reactive with water.



### HMTS III Rating

#### Health

- 0

#### Flammability

- 1

#### Physical

- 0

#### Personal Protection

- 0

This information is based on our current knowledge and is intended to describe the product for the purposes of health, safety and environmental requirements only. It should not therefore be construed as guaranteeing any specific property of the product. The information in this document applies to this specific material as supplied. It may not be valid if product is used in combination with other materials. It is the user's responsibility to determine the suitability and completeness of this information for their particular use. While the information and recommendations set forth herein are believed to be accurate as of the date hereof, Calgon Carbon Corporation makes no warranty with respect to the same, and disclaims all liability for reliance thereon.

## APPENDIX A

### STANDARD CLAUSES FOR ALL NEW YORK STATE SUPERFUND ADMINISTRATIVE ORDERS

The parties to the State Superfund Order (hereinafter "Order") agree to be bound by the following clauses which are hereby made a part of the Order. The word "Respondent" herein refers to any party to the Order, other than the New York State Department of Environmental Conservation (hereinafter "Department").

#### I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Order, Respondent shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of ECL §27-1417 and 6 NYCRR sections 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Order.

#### II. Initial Submittal

Within thirty (30) days after the effective date of this Order, Respondent shall submit to the Department a Records Search Report prepared in accordance with Exhibit "B" attached to the Order. The Records Search Report can be limited if the Department notifies Respondent that prior submissions satisfy specific items required for the Records Search Report.

#### III. Development, Performance, and Reporting of Work Plans

##### A. Work Plan Requirements

All activities at the Site that comprise any element of an Inactive Hazardous Waste Disposal Site Remedial Program shall be conducted pursuant to one or more Department-approved work plans ("Work Plan" or "Work Plans") and this Order and all activities shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300, as required under CERCLA, 42 U.S.C. § 9600 et seq. The Work Plan(s) under this Order shall address both on-Site and off-Site conditions and shall be developed and implemented in accordance with 6 NYCRR § 375-1.6(a), 375-3.6, and 375-6. Subject to Subparagraph III.E.3, all Department-approved Work Plans shall be incorporated into and become enforceable parts of this Order. Upon approval of a Work Plan by the Department, Respondent shall implement such Work Plan in accordance with the schedule contained therein. Nothing in this Subparagraph shall mandate that any particular Work Plan be submitted.

The Work Plans shall be captioned as follows:

##### 1. Site

Characterization ("SC") Work Plan: a Work Plan which provides for the identification of the presence of any

hazardous waste disposal at the Site;

2. Remedial Investigation/ Feasibility Study ("RI/FS") Work Plan: a Work Plan which provides for the investigation of the nature and extent of contamination within the boundaries of the Site and emanating from such Site and a study of remedial alternatives to address such on-site and off-site contamination;

3. Remedial Design/Remedial Action ("RD/RA") Work Plan: a Work Plan which provides for the development and implementation of final plans and specifications for implementing the remedial alternative set forth in the ROD;

4. "IRM Work Plan" if the Work Plan provides for an interim remedial measure;

5. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy; or

6. "Supplemental" if additional work plans other than those set forth in II.A.1-5 are required to be prepared and implemented.

B. Submission/Implementation of Work Plans

1. Respondent may opt to propose one or more additional or supplemental Work Plans (including one or more IRM Work Plans) at any time,

which the Department shall review for appropriateness and technical sufficiency.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan.

i. The Department shall notify Respondent in writing if the Department determines that any element of a Department-approved Work Plan needs to be modified in order to achieve the objectives of the Work Plan as set forth in Subparagraph III.A or to ensure that the Remedial Program otherwise protects human health and the environment. Upon receipt of such notification, Respondent shall, subject to dispute resolution pursuant to Paragraph XV, modify the Work Plan.

ii. The Department may request, subject to dispute resolution pursuant to Paragraph XV, that Respondent submit additional or supplemental Work Plans for the Site to complete the current remedial phase within thirty (30) Days after the Department's written request.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.

4. During all field activities



conducted under a Department-approved Work Plan, Respondent shall have on-Site a representative who is qualified to supervise the activities undertaken in accordance with the provisions of 6 NYCRR 375-1.6(a)(3).

5. A Professional Engineer must stamp and sign all Work Plans other than SC or RI/FS Work Plans.

C. Submission of Final Reports and Periodic Reports

1. In accordance with the schedule contained in a Work Plan, Respondent shall submit a final report as provided at 6 NYCRR 375-1.6(b) and a final engineering report as provided at 6 NYCRR 375-1.6(c).

2. Any final report or final engineering report that includes construction activities shall include "as built" drawings showing any changes made to the remedial design or the IRM.

3. In the event that the final engineering report for the Site requires Site management, Respondent shall submit an initial periodic report by in accordance with the schedule in the Site Management Plan and thereafter in accordance with a schedule determined by the Department. Such periodic report shall be signed by a Professional Engineer or by such other qualified environmental professional as the Department may find acceptable and shall contain a certification as provided at 6 NYCRR 375-1.8(h)(3). Respondent may petition the Department for a determination that the institutional and/or engineering controls may be

terminated. Such petition must be supported by a statement by a Professional Engineer that such controls are no longer necessary for the protection of public health and the environment. The Department shall not unreasonably withhold its approval of such petition.

4. Within sixty (60) days of the Department's approval of a Final Report, Respondent shall submit such additional Work Plans as is required by the Department in its approval letter of such Final Report. Failure to submit any additional Work Plans within such period shall be a violation of this Order.

D. Review of Submittals

1. The Department shall make a good faith effort to review and respond in writing to each submittal Respondent makes pursuant to this Order within sixty (60) Days. The Department's response shall include, in accordance with 6 NYCRR 375-1.6(d), an approval, modification request, or disapproval of the submittal, in whole or in part.

i. Subject to Subparagraph III.E.3 and upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Order and shall be implemented in accordance with the schedule contained therein.

ii. If the Department modifies or requests modifications to a submittal, it shall specify the reasons for such modification(s). Within fifteen (15)

Days after the date of the Department's written notice that Respondent's submittal has been disapproved, Respondent shall notify the Department of its election in accordance with 6 NYCRR 375-1.6(d)(3). If Respondent elects to modify or accept the Department's modifications to the submittal, Respondent shall make a revised submittal that incorporates all of the Department's modifications to the first submittal in accordance with the time period set forth in 6 NYCRR 375-1.6(d)(3). In the event that Respondent's revised submittal is disapproved, the Department shall set forth its reasons for such disapproval in writing and Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XV and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order.

iii. If the Department disapproves a submittal, it shall specify the reasons for its disapproval. Within fifteen (15) Days after the date of the Department's written notice that Respondent's submittal has been disapproved, Respondent shall notify the Department of its election in accordance with 6 NYCRR 375-1.6(d)(4). If Respondent elects to modify the submittal, Respondent shall make a revised submittal that addresses all of the Department's stated reasons for disapproving the first submittal in accordance with the time period set forth in 6 NYCRR 375-1.6(d)(4). In the event that Respondent's revised submittal is disapproved, the Department shall set forth its reasons

for such disapproval in writing and Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XV and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order.

2. Within thirty (30) Days after the Department's approval of a final report, Respondent shall submit such final report, as well as all data gathered and drawings and submittals made pursuant to such Work Plan, in an electronic format acceptable to the Department. If any document cannot be converted into electronic format, Respondent shall submit such document in an alternative format acceptable to the Department.

#### E. Department's Issuance of a ROD

1. Respondent shall cooperate with the Department and provide reasonable assistance, consistent with the Citizen Participation Plan, in soliciting public comment on the proposed remedial action plan ("PRAP"), if any. After the close of the public comment period, the Department shall select a final remedial alternative for the Site in a ROD. Nothing in this Order shall be construed to abridge any rights of Respondent, as provided by law, to judicially challenge the Department's ROD.

2. Respondent shall have 60 days from the date of the Department's issuance of the ROD to notify the Department in writing whether it will implement the remedial activities

required by such ROD. If the Respondent elects not to implement the required remedial activities, then this order shall terminate in accordance with Paragraph XIV.A. Failure to make an election or failure to comply with the election is a violation of this Order.

3. Nothing in this Order, in any submittal, or in any work plan(s) submitted pursuant to this Order shall modify, expand, reduce, or otherwise change the remedial activities (including site management) required by a ROD issued by the Department.

#### F. Institutional/Engineering Control Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Respondent shall submit a written certification in accordance with 6 NYCRR 375-1.8(h)(3) and 375-3.8(h)(2).

#### IV. Penalties

A. 1. Respondent's failure to comply with any term of this Order constitutes a violation of this Order, the ECL, and 6 NYCRR 375-2.11(a)(4). Nothing herein abridges Respondent's right to contest any allegation that it has failed to comply with this Order.

2. Payment of any penalties shall not in any way alter Respondent's obligations under this Order.

B. 1. Respondent shall not suffer any penalty or be subject to any proceeding or action in the event it

cannot comply with any requirement of this Order as a result of any Force Majeure Event as provided at 6 NYCRR 375-1.5(b)(4). Respondent must use best efforts to anticipate the potential Force Majeure Event, best efforts to address any such event as it is occurring, and best efforts following the Force Majeure Event to minimize delay to the greatest extent possible. "Force Majeure" does not include Respondent's economic inability to comply with any obligation, the failure of Respondent to make complete and timely application for any required approval or permit, and non-attainment of the goals, standards, and requirements of this Order.

2. Respondent shall notify the Department in writing within five (5) Days of the onset of any Force Majeure Event. Failure to give such notice within such five (5) Day period constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall be deemed to know of any circumstance which it, any entity controlled by it, or its contractors knew or should have known.

3. Respondent shall have the burden of proving by a preponderance of the evidence that (i) the delay or anticipated delay has been or will be caused by a Force Majeure Event; (ii) the duration of the delay or the extension sought is warranted under the circumstances; (iii) best efforts were exercised to avoid and mitigate the effects of the delay; and (iv) Respondent complied with the requirements of Subparagraph IV.B.2 regarding timely notification.

4. If the Department agrees

that the delay or anticipated delay is attributable to a Force Majeure Event, the time for performance of the obligations that are affected by the Force Majeure Event shall be extended for a period of time equivalent to the time lost because of the Force majeure event, in accordance with 375-1.5(4).

5. If the Department rejects Respondent's assertion that an event provides a defense to non-compliance with this Order pursuant to Subparagraph IV.B, Respondent shall be in violation of this Order unless it invokes dispute resolution pursuant to Paragraph XV and Respondent's position prevails.

#### V. Entry upon Site

A. Respondent hereby consents, upon reasonable notice under the circumstances presented, to entry upon the Site (or areas in the vicinity of the Site which may be under the control of Respondent) by any duly designated officer or employee of the Department or any State agency having jurisdiction with respect to matters addressed pursuant to this Order, and by any agent, consultant, contractor, or other person so authorized by the Commissioner, all of whom shall abide by the health and safety rules in effect for the Site, for inspecting, sampling, copying records related to the contamination at the Site, testing, and any other activities necessary to ensure Respondent's compliance with this Order. Upon request, Respondent shall (i) provide the Department with suitable work space at the Site, including access to a telephone, to the extent available,

and (ii) permit the Department full access to all non-privileged records relating to matters addressed by this Order. Raw data is not considered privileged and that portion of any privileged document containing raw data must be provided to the Department. In the event Respondent is unable to obtain any authorization from third-party property owners necessary to perform its obligations under this Order, the Department may, consistent with its legal authority, assist in obtaining such authorizations.

B. The Department shall have the right to take its own samples and scientific measurements and the Department and Respondent shall each have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled. The Department shall make the results of any such sampling and scientific measurements available to Respondent.

#### VI. Payment of State Costs

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Respondent shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR 375-1.5 (b)(3)(i). Failure to timely pay any invoice will be subject to late payment charge and interest at a rate of 9% from the date the payment is due until the date the payment is made.

B. Costs shall be documented as provided by 6 NYCRR 375-1.5(b)(3). The Department shall not be required to provide any other documentation of



costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the New York State Department of Environmental Conservation and shall be sent to:

Director, Bureau of Program  
Management  
Division of Environmental Remediation  
New York State Department of  
Environmental Conservation  
625 Broadway  
Albany, New York 12233-7012

D. The Department shall provide written notification to the Respondent of any change in the foregoing addresses.

E. If Respondent objects to any invoiced costs under this Order, the provisions of 6 NYCRR 375-1.5 (b)(3)(v) and (vi) shall apply. Objections shall be sent to the Department as provided under subparagraph VI.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph IV or the Department may commence an enforcement action for non-compliance with ECL '27-1423 and ECL 71-4003.

#### VII. Release and Covenant Not to Sue

Upon the Department's issuance of a Certificate of Completion as provided at 6 NYCRR 375-1.9 and 375-2.9,

Respondent shall obtain the benefits conferred by such provisions, subject to the terms and conditions described therein.

#### VIII. Reservation of Rights

A. Except as provided at 6 NYCRR 375-1.9 and 375-2.9, nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the Department's rights or authorities, including, but not limited to, the right to require performance of further investigations and/or response action(s), to recover natural resource damages, and/or to exercise any summary abatement powers with respect to any person, including Respondent.

B. Except as otherwise provided in this Order, Respondent specifically reserves all rights and defenses under applicable law respecting any Departmental assertion of remedial liability and/or natural resource damages against Respondent, and further reserves all rights respecting the enforcement of this Order, including the rights to notice, to be heard, to appeal, and to any other due process. The existence of this Order or Respondent's compliance with it shall not be construed as an admission of liability, fault, wrongdoing, or breach of standard of care by Respondent, and shall not give rise to any presumption of law or finding of fact, or create any rights, or grant any cause of action, which shall inure to the benefit of any third party. Further, Respondent reserves such rights as it may have to seek and obtain contribution, indemnification, and/or any



other form of recovery from its insurers and from other potentially responsible parties or their insurers for past or future response and/or cleanup costs or such other costs or damages arising from the contamination at the Site as may be provided by law, including but not limited to rights of contribution under section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

IX. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, the Trustee of the State's natural resources, and their representatives and employees harmless as provided by 6 NYCRR 375-2.5(a)(3)(i).

X. Public Notice

A. Within thirty (30) Days after the effective date of this Order, Respondent shall provide notice as required by 6 NYCRR 375-1.5(a). Within sixty (60) Days of such filing, Respondent shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy.

B. If Respondent proposes to transfer by sale or lease the whole or any part of Respondent's interest in the Site, or becomes aware of such transfer, Respondent shall, not fewer than forty-five (45) Days before the date of transfer, or within forty-five (45) Days after becoming aware of such conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed or actual date of the conveyance, and shall

notify the transferee in writing, with a copy to the Department, of the applicability of this Order. However, such obligation shall not extend to a conveyance by means of a corporate reorganization or merger or the granting of any rights under any mortgage, deed, trust, assignment, judgment, lien, pledge, security agreement, lease, or any other right accruing to a person not affiliated with Respondent to secure the repayment of money or the performance of a duty or obligation.

XI. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in 6 NYCRR 375-2.2(a), which is proposed for the Site, in accordance with the provisions of 6 NYCRR 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

XII. Environmental Easement

A. If a Record of Decision for the Site relies upon one or more institutional and/or engineering controls, Respondent (or the owner of the Site) shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36, and 6 NYCRR 375-1.8(h)(2). Upon acceptance of the Environmental Easement by the State, Respondent shall comply with the requirements of 6 NYCRR 375-1.8(h)(2).

B. If the ROD provides for no action other than implementation of one or more institutional controls, Respondent shall cause an environmental easement to be recorded under the provisions of Subparagraph XII.A.

C. If Respondent does not cause such environmental easement to be recorded in accordance with 6 NYCRR 375-1.8(h)(2), Respondent will not be entitled to the benefits conferred by 6 NYCRR 375-1.9 and 375-2.9 and the Department may file an Environmental Notice on the site.

### XIII. Progress Reports

Respondent shall submit a written progress report of its actions under this Order to the parties identified in Subparagraph IV.A.1 of the Order by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination date as set forth in Paragraph XIV, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Respondent in connection with this Site, whether under this Order or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion;

unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

### XIV. Termination of Order

A. This Order will terminate upon the earlier of the following events:

1. Respondent's election in accordance with Paragraph III.E.2 not to implement the remedial activities required pursuant to the ROD. In the event of termination in accordance with this Subparagraph, this Order shall terminate effective the 5th Day after the Department's receipt of the written notification, provided, however, that if there are one or more Work Plan(s) for which a final report has not been approved at the time of Respondent's notification of its election not to implement the remedial activities in accordance with the ROD, Respondent shall complete the activities required by such previously approved Work Plan(s) consistent with the schedules contained therein. Thereafter, this Order shall terminate effective the 5th Day after the Department's approval of the final report for all previously approved Work Plans; or

2. The Department's written determination that Respondent has completed all phases of the Remedial Program (including Site Management), in which event the termination shall be effective on the 5th Day after the date of

the Department's letter stating that all phases of the remedial program have been completed.

B. Notwithstanding the foregoing, the provisions contained in Paragraphs VI and IX shall survive the termination of this Order and any violation of such surviving Paragraphs shall be a violation of this Order, the ECL, and 6 NYCRR 375-2.11(a)(4), subjecting Respondent to penalties as provided under Paragraph IV so long as such obligations accrued on or prior to the Termination Date.

C. If the Order is terminated pursuant to Subparagraph XIV.A.1, neither this Order nor its termination shall affect any liability of Respondent for remediation of the Site and/or for payment of State Costs, including implementation of removal and remedial actions, interest, enforcement, and any and all other response costs as defined under CERCLA, nor shall it affect any defenses to such liability that may be asserted by Respondent. Respondent shall also ensure that it does not leave the Site in a condition, from the perspective of human health and environmental protection, worse than that which existed before any activities under this Order were commenced. Further, the Department's efforts in obtaining and overseeing compliance with this Order shall constitute reasonable efforts under law to obtain a voluntary commitment from Respondent for any further activities to be undertaken as part of a Remedial Program for the Site.

#### XV. Dispute Resolution

A. In the event disputes arise under this Order, Respondent may, within fifteen (15) Days after Respondent knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to this Order.

C. Nothing contained in this Order shall be construed to authorize Respondent to invoke dispute resolution with respect to the remedy selected by the Department in the ROD or any element of such remedy, nor to impair any right of Respondent to seek judicial review of the Department's selection of any remedy.

#### XVI. Miscellaneous

A. Respondent agrees to comply with and be bound by the provisions of 6 NYCRR Subparts 375-1 and 375-2; the provisions of such Subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Order to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Order.

B. The Department may exempt Respondent from the requirement to obtain any state or local permit or other authorization for any activity conducted pursuant to this Order in accordance

with 6 NYCRR 375-1.12(b), (c), and (d).

C. 1. Respondent shall use best efforts to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Respondent's obligations under this Order, including all Department-approved Work Plans and the schedules contained therein. If, despite Respondent's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Respondent shall promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist Respondent in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Respondent to modify the Work Plan pursuant to 6 NYCRR 375-1.6(d)(3) to reflect changes necessitated by Respondent's inability to obtain such interest.

D. The paragraph headings set forth in this Order are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Order.

E. 1. The terms of this Order shall constitute the complete and entire agreement between the Department and Respondent concerning the implementation of the activities required by this Order. No term, condition, understanding, or agreement purporting

to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Respondent of Respondent's obligation to obtain such formal approvals as may be required by this Order. In the event of a conflict between the terms of this Order and any Work Plan submitted pursuant to this Order, the terms of this Order shall control over the terms of the Work Plan(s). Respondent consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Order.

2. i. Except as set forth herein, if Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Commissioner with copies to the parties listed in Subparagraph IV.A.1.

ii. If Respondent seeks to modify an approved Work Plan, a written request shall be made to the Department's project manager, with copies to the parties listed in Subparagraph IV.A.1.

iii. Requests for a change to a time frame set forth in this Order shall be made in writing to the Department's project attorney and project manager; such requests shall not be unreasonably denied and a written response to such requests shall be sent to Respondent promptly.

F. 1. If there are multiple parties



signing this Order, the term "Respondent" shall be read in the plural, the obligations of each such party under this Order are joint and several, and the insolvency of or failure by any Respondent to implement any obligations under this Order shall not affect the obligations of the remaining Respondent(s) under this Order.

2. If Respondent is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Order are joint and several and the insolvency or failure of any general partner to implement any obligations under this Order shall not affect the obligations of the remaining partner(s) under this Order.

3. Notwithstanding the foregoing Subparagraphs XVI.F.1 and 2, if multiple parties sign this Order as Respondents but not all of the signing parties elect to implement a Work Plan, all Respondents are jointly and severally liable for each and every obligation under this Order through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Respondents electing to perform additional work shall be jointly and severally liable under this Order for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Order relative to the activities set forth in such Work Plan(s). Further, only those Respondents electing to implement such additional Work Plan(s) shall be eligible to receive the release and covenant not to sue referenced in

#### Paragraph VII.

G. Respondent shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL 27-1421(6) and 6 NYCRR 375-1.5(b)(5).

H. Any time limitations set forth in Section 113(g)(1) of CERCLA, as amended, 42 U.S.C. § 9613(g)(1), Section 1012(h)(2) of the Oil Pollution Act, as amended, 33 U.S.C. § 2712(h)(2), the Federal Water Pollution Control Act, the New York Navigation Law, the New York Environmental Conservation Law, or any other federal or state statute or regulation with respect to potential claims for natural resource damages against Respondent or any other time limitations for the filing of potential natural resource damages claims against Respondent under any other applicable state or federal law are tolled in their entirety from the effective date of this Order until termination of this Order.

I. Unless otherwise expressly provided herein, terms used in this Order which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

J. Respondent's obligations under this Order represent payment for or reimbursement of response costs, and shall not be deemed to constitute any type of fine or penalty.

K. Respondent and Respondent's successors and assigns shall be bound



by this Order. Any change in ownership or corporate status of Respondent shall in no way alter Respondent's responsibilities under this Order.

L. This Order may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.