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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

November 17, 1993

Mr. Jim Adamoli
President
Tascon, Inc.
7607 Fairview Drive
Houston, Texas 77041

Dear Mr. Adamoli,

Thank you for your letter dated July 18, 1993, concerning the regulation and safe management of certain types of liquids, and absorbent materials containing these liquids. I apologize for the delay in our response.

You indicated that your company manufactures paper-based sorbents used for stabilizing liquids prior to incineration, and that you were interested in marketing your products to other users. You requested guidance on instructing the users of your products on how to properly disperse of these materials after use. Because of the numerous types of liquids that could potentially end up in a sorbent material, it would be difficult for us to describe in a generic way how a used sorbent would be regulated. Also, the differing ways in which states may be regulating some of these liquids contained in the sorbents is also extremely important (e.g., some states may regulate used oil more stringently than others). Before explaining this issue in more detail, however, I would like to clarify some points you made in your letter concerning the hazardous waste regulations.

Under the federal Resource Conservation and Recovery Act (RCRA) regulations, certain wastes are defined as hazardous waste, while others remain subject to non-hazardous solid-waste regulations. In general, a solid waste (see footnote 1) is defined as hazardous waste if it either 1) is listed as hazardous waste in Title 40 of the Code of Federal Regulations (CFR), Part 261 Subpart D, or 2) exhibits one or more of the hazardous characteristics in

40 CFR Part 261, Subpart C. You stated that liquids such as used motor oil, anti-freeze, and grease are classified as hazardous. This is not always true; under the federal RCRA regulations, these liquids you mentioned are not specifically listed as hazardous wastes, although these materials might exhibit a characteristic of hazardous waste. It is the responsibility of the generators of these wastes to make this determination in accordance with 40 CFR 262.11.

It appears that the wastes that your potential customers will be generating, for which you are seeking guidance on disposal, are actually the used sorbents that have been used to clean up spills or leaks of various liquids. Unless the sorbents are being used to clean up spills of listed hazardous wastes (or chemicals that when spilled become listed hazardous wastes), the used sorbents would only be defined as hazardous waste if they exhibit any of the characteristics of hazardous waste. I have enclosed some materials that describe both listed and characteristic hazardous wastes. Your potential customers should be aware that the EPA has specifically prohibited the placement of bulk and containerized liquid wastes, or wastes containing free liquids (see footnote 2), into a hazardous waste landfill. An EPA rulemaking published on November 18, 1992 (57 Federal Register 54452), prohibits the direct placement into hazardous waste landfills of liquids that have been sorbed with "biodegradable" sorbents (see 40 CFR 264.314(e)). However, this rule does not in any way prohibit or restrict the use of sorbents, organic or otherwise, to address wastes or products being sent to a non-hazardous waste landfill (see discussion below on municipal solid waste landfills); nor does this rule affect the use of sorbents that are not landfilled (e.g., they are burned or incinerated). I have enclosed a copy of this rulemaking, as well as three letters written by EPA that further clarify certain issues regarding this rule. Should you have any questions specific to this rulemaking, you may contact Ken Shuster at (703) 308-8759.

In addition, there are other restrictions on the land disposal of hazardous waste (including hazardous waste/sorbent mixtures), known as the "Land Disposal Restrictions", or LDRs. These restrictions mandate that hazardous wastes be treated prior to land disposal to meet certain criteria, specific to each type of hazardous waste. Such treatment of hazardous waste prior to land disposal is often performed by commercial waste management companies, and may include incineration or stabilization. Potential users of your products should already be familiar with the land

disposal restrictions if they are already generating and disposing of hazardous wastes.

I would also point out that used sorbents that do not meet the definition of hazardous waste still need to be managed in accordance with any applicable federal, State, and local solid waste regulations (e.g., some states may have a category of "special" waste for certain petroleum-contaminated, non-hazardous waste). EPA regulations pertaining to municipal solid waste landfills (40 CFR 258.28) prohibit the disposal of bulk or containerized liquid wastes and wastes containing free liquids (see October 9, 1991 Federal Register, 56 FR 51021). I have enclosed a copy of this rule. You should note that these federal regulations regarding sorbed liquids placed into municipal solid waste landfills do not have a biodegradability criteria like that described above for sorbed liquids placed in hazardous waste landfills.

With regard to the disposal of sorbents containing liquids defined as used oil, EPA addressed this issue in the final rule on used oil management standards (September 10, 1999, Federal Register, 57 FR 41566), and in a subsequent technical correction (May 3, 1993 Federal Register, 58 FR 26420). I have enclosed copies of these two final rules. Assuming that sorbents containing used oil will not be burned for energy recovery, these sorbents would be subject to the EPA's used oil management standards only if free flowing used oil is visible (see footnote 3). Sorbents containing used oil that will be burned for energy recovery are subject to the used oil regulations regardless of whether or not free-flowing oil is visible per 279.10(c)(2)). Assuming that the sorbents are defined as used oil and will not be burned for energy recovery, EPA presumes that used oil is going to be recycled (even if the generator is planning to dispose of the used oil), until the used oil is actually disposed of on site, or sent off site for disposal (see footnote 4). Prior to being sent off site for disposal, sorbents meeting the definition of used oil, even sorbents exhibiting a characteristic of hazardous waste, would only be subject to the used oil standards. Once disposed of on site or sent off site for disposal, these sorbents would then be regulated under either hazardous or non-hazardous solid waste regulations.

I would like to reiterate that generators of sorbents containing various liquids should be advised to contact their state

solid and hazardous waste agencies, with a description of the material for which they are seeking disposal. State regulators are typically most familiar with the location and acceptance criteria of disposal facilities within their states, as well as with any particular state regulations that may impact the disposal requirements for these types of materials. I have enclosed a listing of state agencies, as well as some other information on solid and hazardous waste that I hope you will find useful. If you have any questions on this information, please contact Ross Elliott of my staff at (202) 260-8551. Thank you for your interest in the safe management of solid and hazardous waste.

Sincerely,
Bruce R. Weddle
Acting Director
Office of Solid Waste

enclosures (13)

- 1 As you may know, the term "solid" here does not refer to the physical form of the waste., but rather to the universe of garbage, refuse, industrial waste, wastewater, and other wastes regulated by the U.S. EPA.
- 2 As defined by the Paint Filter Liquids Test, EPA Method 9095.
- 3 See amended 40 CFR 279.10(c) at 58 FR 26425; see also preamble discussion at 57 FR 41581 and 41585.
- 4 See 40 CFR 279.10(a); see also preamble discussion of used-oil recycling presumption at 57 FR 41578.