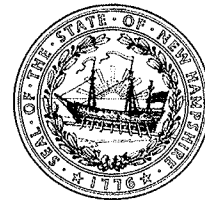




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

The Timken Company, Inc.
1835 Dueber Avenue SW
Canton, OH 44706

Re: Timken Super Precision (Plant #1)
7 Optical Avenue, Keene, NH
EPA ID No. NHD001082908

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 14-006

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and The Timken Company, Inc., pursuant to RSA 147-A. This Administrative Fine by Consent is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division (“DES”) is a duly-constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive in Concord, New Hampshire.
2. The Timken Company, Inc. (“Timken”) is a corporation registered to do business in New Hampshire having a mailing address of 1835 Dueber Avenue SW, Canton, OH 44706.

III. BACKGROUND

1. Pursuant to RSA 147-A, the Department of Environmental Services regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted NH CODE ADMIN. RULES Env-Hw 100-1100 (the “Hazardous Waste Rules”) to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per offense for violations of RSA 147-A or rules adopted pursuant thereto.
3. Timken is a hazardous waste generator that notified the United States Environmental Protection Agency (“EPA”) of hazardous waste activities at 7 Optical Avenue in Keene, New Hampshire on July 16, 1981. EPA Identification Number NHD001082908 was assigned to Timken’s site located at 7 Optical Avenue, Keene, New Hampshire (the “Facility”).
4. On August 31, 2011, DES conducted an inspection of the Facility. The purpose of the inspection was to determine Timken’s compliance with RSA 147-A and the Hazardous Waste Rules.

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2867 • TDD Access: Relay NH 1-800-735-2964

5. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES sent Timken Letter of Deficiency No. WMD 12-001, dated April 17, 2012, and a Notice of Past Violation dated June 21, 2013. Based on the violations observed during the inspection, DES believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Timken violated Env-Hw 502.01, by failing to conduct an adequate hazardous waste determination for the following waste streams generated at the Facility ("Violation 1"):

- a. "Dow Corning RTV 1204 Prime Coat";
- b. "Dow Corning 3-6548 silicone RTV Foam, Part B";
- c. "Dow Corning 3145 RTV MIL-A-46146 Adhesive/Sealant Clear";
- d. "Oakite Rust Stripper";
- e. "Ultra-Filtration Media Columns";
- f. "EZE 767";
- g. "Ultra-Filtration (UF) Concentrate"; and
- h. "EZE 767 wastewater."

DES proposes a fine of \$2,000 per inadequate hazardous waste determination. For settlement purposes only, DES is seeking a fine for four counts of failing to perform an adequate hazardous waste determination on the EZE 767 wastewater waste stream; DES will not seek a fine for Timken's failure to perform an adequate hazardous waste determination on waste streams "a" through "g"; for a potential fine of \$8,000 for these violations.

2. Timken violated RSA 147-A:4, I, and Env-Hw 303.01, by failing to obtain a Standard Permit for the operation of a hazardous waste facility (*i.e.*, storage and treatment of hazardous waste generated off-site) at the Facility ("Violation 2"). DES proposes a fine of \$2,000 for this violation.

3. Timken violated RSA 147-A:4, I, and Env-Hw 304.04, by failing to obtain a Limited Permit for the operation of a wastewater treatment unit (*i.e.*, treatment of hazardous waste generated on-site) at the Facility ("Violation 3"). DES proposes a fine of \$2,000 for this violation.

4. Timken violated Env-Hw 507.03(a)(1)a., by failing to mark one (1) 275-gallon tote of hazardous waste stored at the Facility with the beginning accumulation date ("Violation 4"). For settlement purposes only, DES is not proposing a fine for this violation.

5. Timken violated Env-Hw 509.02(a)(1), and Env-Hw 509.02(a)(6), by failing to document four out of the last 52 required weekly inspections of the hazardous waste storage area at the Facility, and failing to include the frequency of the inspections on the inspection checklist ("Violation 5"). For settlement purposes only, DES is not proposing a fine for this violation.

6. Timken violated Env-Hw 509.02(a)(2), by failing to maintain an adequate personnel training program for the Facility ("Violation 6"). For settlement purposes only, DES is not proposing a fine for this violation.

7. Timken violated Env-Hw 509.03, by failing to manage hazardous waste satellite storage containers stored at the Facility at or near the point of generation where the wastes initially accumulate and under the control of the operator of the process generating the waste ("Violation 7"). For settlement purposes only, DES is not proposing a fine for this violation.
8. Timken violated Env-Hw 509.03(d), and Env-Hw 507.01(a)(3), by failing to close one 30-gallon and two 5-gallon satellite containers of hazardous waste stored at the Facility ("Violation 8"). For settlement purposes only, DES is not proposing a fine for this violation.
9. Timken violated Env-Hw 807.06(b)(4), by failing to mark one 5-gallon container of used oil destined for recycling stored at the Facility with the words "Used Oil for Recycle" ("Violation 9"). For settlement purposes only, DES is not proposing a fine for this violation.
10. Timken violated Env-Hw 807.06(b)(5), by failing to close two 5-gallon containers of used oil destined for recycling stored at the Facility ("Violation 10"). For settlement purposes only, DES is not proposing a fine for this violation.
11. Timken violated Env-Hw 807.06(b)(7), by failing to perform an initial used oil determination for the "SuperKool" used oil, and the "Facility" used oil, generated at the Facility ("Violation 11"). For settlement purposes only, DES is not proposing a fine for this violation.

V. PAYMENT, WAIVER OF HEARING

1. For purposes of settlement only, DES agrees not to pursue fines associated with Violations 4 through 11 because they are not Class I violations. Additionally, for purposes of settlement only, DES agrees not to pursue a fine for Violation 3, as the violation is addressed in the penalty proposal for Violation 2.
2. DES asserts that the following fines are appropriate for Violations 1 and 2:
 - a. Violation 1 is a Class I violation. No penalty reduction is recommended. DES proposes a fine of \$8,000 for this violation; and
 - b. Violation 2 is a Class I violation. DES has determined that the following reduction should be applied to the penalty:
 - i. A 25% reduction due to Timken's cooperation in correcting the violation.DES proposes a fine of \$1,500 ($\$2,000$ (base penalty) \times .75 (25% reduction)) for this violation.
3. Timken agrees to pay the total proposed fine in the amount of \$9,500 upon execution of this Administrative Fine by Consent by an authorized representative of Timken.
4. Payment under the preceding paragraph shall be paid by certified or corporate check made payable to "Treasurer, State of New Hampshire" and mailed to: **DES Legal Unit, Attn: Compliance Attorney, P.O. Box 95, Concord, NH 03302-0095.**
5. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the

check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

6. By executing this Administrative Fine by Consent, Timken waives its right to a hearing on or any appeal of the administrative fines identified in this Administrative Fine by Consent, and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.

7. The effective date of this Administrative Fine by Consent will be the date on which it is signed by an authorized representative of Timken, the Director of the Waste Management Division, and the Commissioner of DES.

8. No failure by DES to enforce any provision of this Administrative Fine by Consent after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.


WHEREFORE, the parties voluntarily accept the terms of this Agreement.

The Timken Company, Inc.


By: Roger Ward, Plant Manager
Duly Authorized

6/13/14
Date

Department of Environmental Services


Michael J. Wimsatt, P.G., Director
Waste Management Division

7/1/14
Date


Thomas S. Surack, Commissioner

7/3/2014
Date

cc: DES Legal Unit
RCRA/DB/AF

ec: Public Information Officer, DES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Robert Bishop, Enforcement Manager, HWMB/DES
Keene City Council