



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 #2)  
32 Optical Avenue, Keene, NH  
EPA ID No. NHD986471027

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 14-007**

### **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 32 Optical Avenue in Keene, New Hampshire on November 28, 1990. EPA Identification Number NHD986471027 was assigned to Timken’s site located at 32 Optical Avenue, Keene, New Hampshire (the “Facility”).
4. On September 29, 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](http://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 12-002 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 waste stream "Mop Water/Oily Water" generated at the Facility ("Violation 1"). EZE 767 wastewater, a component of the Mop Water/Oily Water waste stream, is an ignitable hazardous waste. DES proposes a fine of \$2,000 for this violation.
2. Timken violated Env-Hw 507.03(a)(1)d., by failing to mark one 55-gallon container of hazardous waste stored at the Facility with the EPA or state waste number ("Violation 2"). For settlement purposes only, DES is not proposing a fine for this violation.
3. 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 3"). For settlement purposes only, DES is not proposing a fine for this violation.
4. Timken violated Env-Hw 510.01, by failing to document the transportation of hazardous waste EZE 767 wastewater from the Facility to Timken's facility located at 7 Optical Avenue, in Keene, New Hampshire ("Plant #1") on a hazardous waste manifest ("Violation 4"). DES proposes a fine of \$2,000 for this violation.
5. Timken violated Env-Hw 511.01(b), by failing to deliver hazardous waste EZE 767 wastewater generated at the Facility to a facility authorized to accept the hazardous waste ("Violation 5"). DES proposes a fine of \$2,000 per failure to deliver hazardous waste to an authorized facility. For settlement purposes only, DES is seeking a fine for four counts of failing to deliver hazardous waste EZE 767 wastewater to an authorized facility, for a potential fine of \$8,000 for these violations.
6. Timken violated RSA 147-A:6, I, and Env-Hw 602.01(a), by failing to obtain a transporter registration prior to transporting hazardous waste EZE 767 wastewater generated at the Facility to Plant #1 ("Violation 6"). DES proposes a fine of \$2,000 for this violation.
7. Timken violated Env-Hw 807.06(b)(7), by failing to perform an initial used oil determination for the "Facility" used oil ("Violation 7"). For settlement purposes only, DES is not proposing a fine for this violation.
8. Timken violated Env-Hw 807.06(b)(12), by failing to document the transportation of the "Facility" used oil from the Facility to Plant #1 on a bill of lading ("Violation 8"). 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 2, 3, 7, and 8 because they are not Class I violations. Additionally, for purposes of settlement only, DES agrees not to pursue a fine for Violation 4, as the violation is addressed in the penalty proposal for Violation 6.
2. DES asserts that the following fines are appropriate for Violations 1, 5, and 6:
  - a. Violation 1 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.
  - b. Violation 5 is a Class I violation. No penalty reduction is recommended. DES proposes a fine of \$8,000 for this violation; and
  - c. Violation 6 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 \$11,000 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

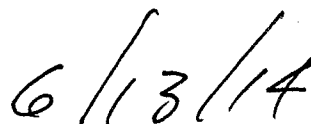
will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.

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

**The Timken Company, Inc.**

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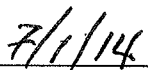
By: Roger Ward, Plant Manager  
Duly Authorized

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**Department of Environmental Services**


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

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Thomas S. Burack, Commissioner

A handwritten date "7/3/2014" in black ink, written above a horizontal line. The word "Date" is printed below the line.

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