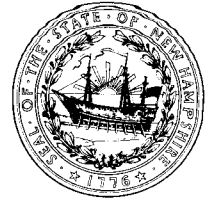




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

February 5, 2009

Gregory Burzynski, President  
Aero-Dynamics, Inc.  
142 Batchelder Rd  
Seabrook, NH 03874-4403

Re: Docket No. AF 09-001 and AF 09-002 - Administrative Fine by Consent Agreements

Dear Mr. Burzynski:

Enclosed for your records are copies of the fully executed and accepted Administrative Fine by Consent Agreements in the above captioned matters.

We have received the first payments in each of these matters. Your second payments were due by February 1, 2009, and the final payments are due by October 1, 2009. Please disregard this payment request if the payments have crossed in the mail. All payments shall be made payable to "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit  
Attn: Compliance Attorney  
PO Box 95  
Concord, NH 03302-0095

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

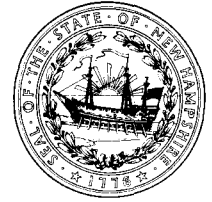
**COPY**  
*Jane Murray*  
Jane Murray  
Executive Secretary  
DES Legal Unit

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau Head, NH DOJ  
DES Public Information Officer  
John J. Duclos, Administrator, HWCB-WMD, DES  
Linda R. Birmingham, HWCB-WMD, DES

cc: DES Legal Unit



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

Aero-Dynamics, Inc.  
142 Batchelder Road  
Seabrook, NH 03874-4403

Re: 146 Batchelder Road, Seabrook  
EPA ID #NHD981210099

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 09-002**

### **I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Aero-Dynamics, 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, Concord, New Hampshire.
2. Aero-Dynamics, Inc. ("Aero"), is a corporation registered to do business in New Hampshire having a principal office and mailing address of 142 Batchelder Road, Seabrook, NH, 03874.

### **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-Wm 100-1100 ("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. Pursuant to this section, the Commissioner has adopted NH CODE ADMIN. RULES Env-C 612 to establish the schedule of fines for such violations.
3. Aero is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on August 1, 1997. EPA Identification Number NHD981210099 was assigned to Aero's site located at 146 Batchelder Road in Seabrook, New Hampshire (the "Facility").

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

4. On April 19, 2007, DES personnel inspected Aero for compliance with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Notice of Past Violation ("NPV") to Aero on May 17, 2007. Based on the violations observed at the Facility during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violations.

#### **IV. ALLEGATIONS, ADMINISTRATIVE FINES**

1. Aero failed to mark, as required by Env-Wm 507.03(a)(1)a, five (5) 270-gallon plastic totes of hazardous waste chrome plating solution; four (4) 55-gallon drums of hazardous waste lead chromate tank bottom sludge; and one (1) 55-gallon drum of hazardous waste spent lead anodes stored in the hazardous waste storage area with the beginning accumulation date when they are first used to store hazardous waste ("Violation 1"). For this violation, Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater, for a potential fine of \$2,500.

2. Aero failed to mark, as required by Env-Wm 507.03(a)(1)b, Env-Wm 507.03(a)(1)c and Env-Wm 507.03(a)(1)d, the five (5) 270-gallon plastic totes of hazardous waste chrome plating solution; the four (4) 55-gallon drums of hazardous waste lead chromate tank bottom sludge; and the one (1) 55-gallon drum of hazardous waste spent lead anodes stored in the hazardous waste storage area with the words "Hazardous Waste", the contents of the container, and EPA or state waste number ("Violation 2"). For this violation, Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater for a potential fine of \$6,000.

#### **V. PAYMENT, WAIVER OF HEARING**

1. DES asserts that the following fines are appropriate for Violations 1 & 2, which are Class I violations:

a. Violation 1 is a Class I violation. DES has determined due to Aero's high level of cooperation in providing information and its effort to correct the violation that a 25% reduction should be applied. DES is thus seeking a fine of \$1,875 for Violation 1; and

b. Violation 2 is a Class I violation. DES has determined due to Aero's high level of cooperation in providing information and its effort to correct the violation that a 25% reduction should be applied. DES is thus seeking a fine of \$4,500 for Violation 2.

2. Aero agrees to pay fines in the amount of \$6,375 within the next ten (10) months as follows:

a. Aero shall pay \$660 of the fine upon execution of this Agreement by an authorized representative of Aero; and

b. Aero shall pay the remaining \$5,715 in nine (9) equal monthly payments of \$635 due the first of each month beginning February 1, 2009 and ending with the last payment due on October 1, 2009.

3. Payments under paragraph "V.2" shall be paid by certified check made payable to "Treasurer, State of New Hampshire" and mailed to: **DES Legal Unit, Attn: Legal Assistant, PO Box 95, Concord, NH 03302-0095.**

4. 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.

5. By executing this Administrative Fine by Consent, Aero 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.

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

7. 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.

**Aero-Dynamics, Inc.**


**COPY**  
  
 By: Gregory Burzynski, President  
 Duly Authorized

Date 1/20/09

**Department of Environmental Services**

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

Date 1/27/09

**COPY**  
  
 Thomas S. Burack, Commissioner

Date 2/2/09

cc: DES Legal Unit

DB/RCRA/AF

ec: Public Information Officer, DES PIP Office  
John J. Duclos, Administrator, HWCB-WMD

K. Allen Brooks, Chief, AGO-Environmental Protection Bureau  
Linda R. Birmingham, HWCB-WMD