



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

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DEVAL L. PATRICK  
Governor

RICHARD K. SULLIVAN JR.  
Secretary

KENNETH L. KIMMELL  
Commissioner

### THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

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In the Matter of  
Edward Leahy

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December 5, 2013

**Docket No. 2009-037**  
DEP File No. UAO-CE-09-1V002; and  
**Docket No. 2009-038**  
DEP File No. PAN-CE-09-1V001

### FINAL DECISION

The Petitioner Edward Leahy brought these two consolidated appeals challenging two enforcement orders that the Central Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to the Petitioner for purported violations of Massachusetts statutes and regulations governing inspections of subsurface systems that dispose domestic sewage (“septic systems”). See G.L. c. 21A, § 13 and 310 CMR 15.340 (“Title 5”). The Petitioner and the Department have settled the litigation by executing a Settlement Agreement in the form of an Administrative Consent Order With Penalty and Notice of Non-Compliance (“ACOP”). I issue this Final Decision approving and incorporating the ACOP that has been executed by the Petitioner Edward C. Leahy and Lee

Dillard Adams, Regional Director of the Department's Central Regional Office. Per the ACOP, the effective date of the ACOP is the date of this Final Decision.

In accordance with the ACOP, I issue the following Orders:

(1) The Petitioner shall immediately perform the actions set forth in paragraph 7A of the ACOP. Specifically, the Petitioner:

shall immediately cease and desist from activities requiring approval as an approved Title 5 System Inspector until such time as [the Petitioner] attends training provided or authorized by the Department and passes a standard examination prepared and administered by the Department or an agent authorized by the Department.

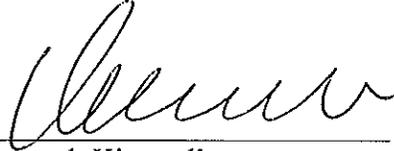
(2) The Petitioner shall pay a total civil administrative penalty of \$995.00 to the Commonwealth in four (4) quarterly payments in accordance with paragraph 12 of the ACOP as follows:

- (a) the Petitioner shall pay the first quarterly payment of \$245.00 within 30 days after the date of this Final Decision;
- (b) the Petitioner shall pay the second quarterly payment of \$250.00 within 90 days after making the first quarterly payment of \$245.00;
- (c) the Petitioner shall pay the third quarterly payment of \$250.00 within 90 days after making the second quarterly payment of \$250.00; and
- (d) the Petitioner shall pay the fourth quarterly payment of \$250.00 within 90 days after making the third quarterly payment of \$250.00.

(3) In accordance with paragraph 19 of the ACOP, if the Petitioner violates any provision of the ACOP, the Petitioner shall pay the Commonwealth, in addition to payment of the \$995.00 civil administrative penalty in paragraph 12 of the ACOP, stipulated civil

administrative penalties of \$250.00 per day for each day any violations continue.

(4) In accordance with 310 CMR 1.01(8)(c), these two appeals (Docket Nos. 2009-037 & 038) are dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court.

A handwritten signature in cursive script, appearing to read 'Kenneth Kimmell', written over a horizontal line.

Kenneth Kimmell  
Commissioner

**SERVICE LIST**

In the Matter of  
Edward Leahy

**Docket No. 2009-037**  
DEP File No. UAO-CE-09-1V002; and  
**Docket No. 2009-038**  
DEP File No. PAN-CE-09-1V001

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**Party**

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