

General Terms and Definitions used on EEA's Data Portal for MassDEP

- 1) **Administrative Consent Order (ACO); Administrative Consent order, no penalty; Administrative Consent Order, with penalty (ACOP):** The Department generally prefers settlement to litigation and, to that end, will exercise its authority to issue Administrative Consent Orders. These are enforceable documents, negotiated and agreed to between the regulated entity against whom noncompliance is alleged, and/or who may be obligated to comply with applicable regulations or deadlines, and MassDEP. ACOPs, which require and set the terms for compliance with applicable regulations at issue, and the terms for penalty payment, can include out of pocket and/or suspended penalties, and may also contain stipulated penalties. ACOs, which parties can agree to in order to establish and memorialize clean-up or remediation deadlines, or other scheduled activities, contain only stipulated penalties, which are contingent upon performance. Administrative Consent Orders typically obviate the need for issuance of Unilateral Administrative Order (see *infra.*) and are not subject to appeal.
- 2) **Administrative Order** - "Administrative order" (also known as "unilateral order" or "order") means a document, generally subject to appeal, issued by MassDEP to one or more regulated entities, that: (1) specifies a requirement(s) with which the regulated entity failed to comply; (2) specifies an occasion(s) on which the alleged noncompliance was discovered; and (3) requires the regulated entity to take appropriate response action to achieve and/or maintain compliance with statutory or regulatory requirements by a specific date or dates.
- 3) **Analyte** – A chemical substance being measured.
- 4) **Blank** - A sample of analyte-free media.

- 5) **Boil Water Order** - *Boil Water Orders* are preventative measures issued to protect public health from waterborne infectious agents that could be, or are known to be, present in drinking water. When necessary, MassDEP issues such Orders to local public water suppliers, which then issue advisories to consumers advising them to boil tap water used for drinking and other human-consumption.
- 6) **Demand Action** – A *Demand Action* is a formal notice, in letter format, from MassDEP demanding that the recipient party comply with certain regulatory requirements, and/or take action under a previously executed agreement. Demand Actions are not subject to appeal.
- 7) **DEP Facility** – A term MassDEP created for “*Facility Type*” for our information systems to describe facilities that have multiple permits and may be regulated by multiple programs; or an entity that MassDEP has regulatory actions against, such as Inspections and Enforcement, that did not meet criteria to be regulated by a program.
- 8) **Expedited Penalty Assessment Notice** - (EXPAN): An Expedited Penalty Assessment Notice (“EXPAN”) is a type of PAN (see infra.) that MassDEP may issue: (1) during, or within a short period of time following an inspection; (2) in response to six or fewer violations of requirements specifically identified by MassDEP as qualifying for use of an EXPAN; and (3) for which a Notice of Noncompliance (“NON”) (see infra.) or Field Notice of Noncompliance (“FNON”) (see infra.) has previously been issued. Like PANS, EXPANS can be appealed.
- 9) **Federal Administrative Order against Public Water Supply** - An *Administrative Order* that is issued by EPA, not MassDEP, to a Public Water Supply (“PWS”).
- 10) **Federal Notice of Noncompliance against Public Water Supply** - A *Notice of Noncompliance* that is issued by EPA, not MassDEP, to a PWS.
- 11) **Field notice of noncompliance** - (Field NON or FNON) A *Notice of Noncompliance* issued by MassDEP that may be issued in the field immediately following an

inspection, in response to six or fewer violations of requirements that are specifically identified by MassDEP as qualifying for a FNON.

12) **For General Permit Use** – A generic catch all for facilities

13) **MCL - Maximum contaminant level:** the highest level of a contaminant that is allowed in drinking water.

14) **MDL - Method Detection Limit:** The minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

15) **Method** - Approved EPA methods for measuring the concentration of a substance or pollutant.

16) **Notice of noncompliance - (NON)** – A written notice given to a regulated entity by MassDEP and which says that the regulated entity has failed to comply on any specified occasion with one or more requirements. 310 CMR 5.00, specifically at 5.12, prescribes that, in order to assess a penalty for continued noncompliance, a written notice alleging noncompliance must specify:

- The requirement(s) with which the regulated entity failed to comply;
- Occasion(s) on which the alleged noncompliance was observed or discovered by MASSDEP;
- A reasonable deadline or deadlines by which the regulated entity is required either to
 - i) Come into compliance with the requirement(s) described in the NON, or
 - ii) Submit to MassDEP a written proposal setting forth how and when the regulated entity proposes to comply with the requirement(s) described in the NON (310 CMR 5.12(2)).

17) **Operations** - Apparent records tied to all programs.

18) **Penalty Assessment Notice (PAN)** - A *Penalty Assessment Notice* (“PAN”) is a formal, written type of demand action, issued by MassDEP, that concerns

payment to the Commonwealth of civil administrative monies deemed due and owing. PANs are subject to appeal.

- 19) **Reporting Penalty Assessment Notice (RPAN)** – Also known as a Simplified Penalty Assessment Notice. The expedited PAN includes a pre-assessed penalty for violations of required submittal requirements for several MassDEP programs.
- 20) **Standardized Penalty Assessment Notice (SPAN)** – See RPAN also. The expedited PAN includes a pre-assessed penalty for violations of required submittal requirements for MassDEP’s Bureau of Waste Site Cleanup.
- 21) **Unilateral Administrative Order (UAO)** – MassDEP is authorized to issue a *Unilateral Administrative Order* (“UAO”) to a regulated entity for purported violation of applicable laws over which MassDEP has jurisdiction. A UAO is not a negotiated document. It is issued unilaterally by MassDEP to a regulated entity and will specify the obligations with which the regulated entity has purportedly failed to comply, the dates on which such purported noncompliance was discovered, and the requirements and timelines that the regulated entity must implement and fulfill in order to achieve and maintain regulatory compliance. UAOs are subject to appeal.