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# U.S. EPA's SDWA Enforcement Response Policy and Region 5 Priorities

Michigan Department of Environmental Quality  
Noncommunity Drinking Water Supply Workshop

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# Overview

- U.S. EPA's SDWA Enforcement Response Policy (ERP)
- Enforcement Targeting Tool (ETT)
- Region 5 Enforcement and Compliance Assistance Focus
- Violations at Michigan Noncommunity Water Supplies
- Noncommunity Water Supply Program Progress and Next Steps
- Q & A

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**U.S. EPA's  
Safe Drinking Water Act  
Enforcement Response Policy**

# Enforcement Response Policy

- The ERP, which was issued on December 8, 2009, replaces previous significant non-compliance definitions by focusing enforcement attention on violating public water systems (PWSs), instead of on separate violations.
- Each quarter, EPA uses SDWIS data to identify “priority systems” -- those PWSs that appear to have the most serious, numerous, or longest-lasting uncorrected and unaddressed violations.
- Once a PWS becomes a priority system, within six months it must either be returned to compliance or the primacy agency must have entered a formal enforcement action that compels the violating system to return to compliance on an enforceable schedule.

# Formal Enforcement

- Elements of a formal enforcement action:
  1. Description of the violations;
  2. Citation to applicable state or federal law;
  3. Description of specific actions required for returning to compliance;
  4. Compliance schedule; and
  5. Authority to impose penalties for violation of the enforcement document.
  
- Formal enforcement has the intent to bring a system back into compliance by a certain time with an enforceable consequence if the schedule is not met.
  
- A PWS's violations under formal enforcement action are considered addressed under the ERP and the violations no longer contribute to the system's ETT score. We will continue to track these violations until they return to compliance.

# Priority Systems

## *Enforcement Targeting Tool (ETT)*

- Each uncorrected and unaddressed violation at a PWS is assigned a point value that reflects the seriousness of that violation.
- The points for all uncorrected and unaddressed violations at each PWS are aggregated each quarter.
- Each PWS is assessed an additional point for each year the oldest violation at the PWS has gone uncorrected and unaddressed.
- Violation points and duration points are combined to produce the PWS's ETT score.
- If a PWS's ETT score is 11 or higher, the PWS is a priority system.

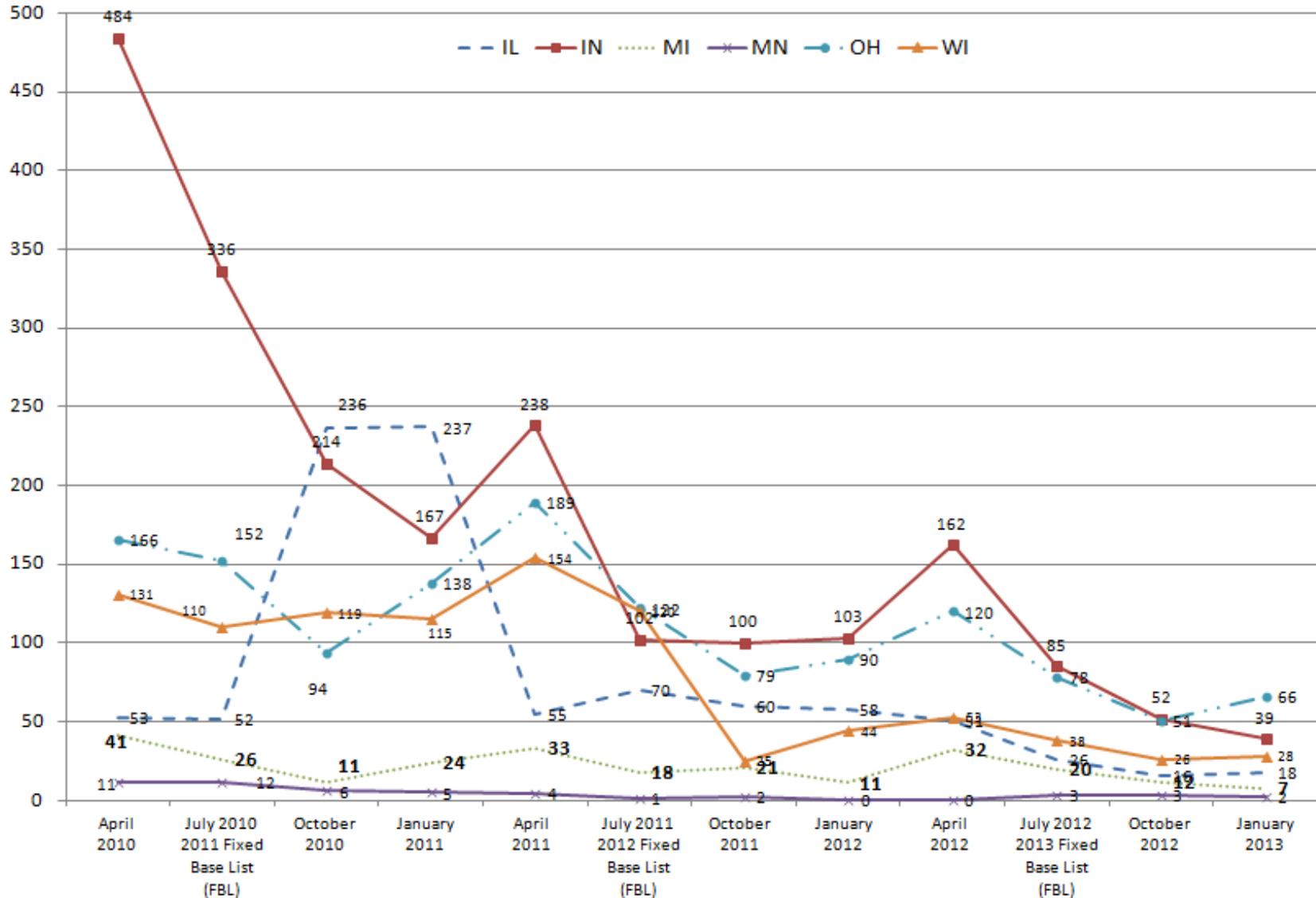
# FY 2013 SDWA Enforcement Measure

“SDWA02: The primacy agency must address with a formal enforcement action or return to compliance (RTC) the number of priority systems equal to the number of its PWSs that have a score of 11 or higher on the July 2012 ETT report.”

- The drinking water program has one measure under the OECA National Program Manager Guidance.
- Each August, state commitments are determined using the number of priority systems on the July ETT. This becomes a fixed base list of systems that we track each quarter.
- The state works to meet its commitment by addressing the systems with formal enforcement action or returning them to compliance.
- Each state gets credit toward meeting its commitment with each priority PWS meeting the following: (1) has a score that falls below 11 or (2) is addressed with formal enforcement action or returned to compliance.

# Region 5 Measure Trends

Number of Priority Public Water Systems under the Enforcement Response Policy  
(ETT Scores  $\geq 11$ )



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# Enforcement Targeting Tool

# ETT Score Calculation

$$\text{ETT score} = \text{Sum}(S_1 + S_2 + S_3 + \dots) - \text{Sum}(\text{AddrPts}) + n$$

- Each violation at a PWS is given points based on its severity (S):
  1. Acute health-based violations (Tier 1): 10 pts
  2. Other health-based violations (Tier 2), Total Coliform Rule (TCR) repeat monitoring violations, and Nitrate monitoring and reporting violations: 5 pts
  3. All other monitoring and reporting or “Other” violations: 1 pt
- Any violation that has received formal enforcement action or been returned to compliance (RTC'd) will be given “AddrPts” (addressed points.)
- n is the age in years of the longest unaddressed violation
- Any PWS with an ETT score  $\geq 11$  is considered a “priority system” which must receive formal enforcement action or be RTC'd within 6 months

Score based on quarterly frozen data in SDWIS-Fed for violations within the last 5 years

# ETT Score – “n” Calculation Notes

➤ n calculation =

# of months between “violation date” and “current date” / 12

“violation date” = Compliance Period Begin or End Date depending on violation type. Compliance Period Begin Date is used for some MDBP violations and all LCR, PN, and CCR violations. For all other violations, e.g. TCR, chem/rads, etc., the Compliance Period End Date is used to calculate n.

“current date” = Database freeze date

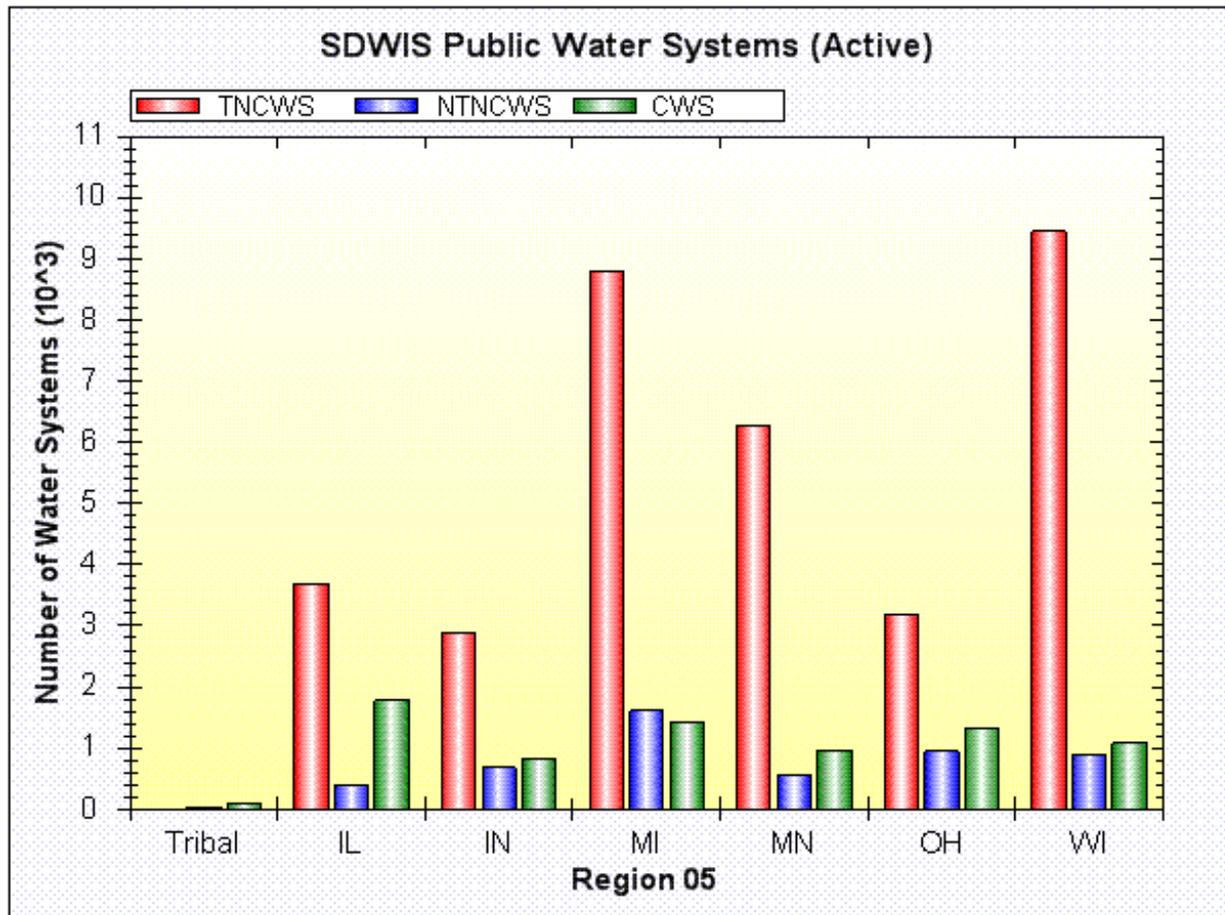
□ ex) for January 2013 ETT, “current date” = 1/1/2013

**Summary:** Any violation dated  
0-11 months ago gets n = 0;  
12-23 months ago gets n = 1;  
24-35 months ago gets n = 2; etc.  
**Note:** If calculated n > 5, “n” in ETT = 5.

# Region 5 Enforcement and Compliance Assistance Focus

- Enforcement Response Policy (ERP) Implementation
  - ❑ Initiate formal enforcement action or return to compliance all priority systems within six months of becoming a priority.
  - ❑ MI had 7 priority systems in January 2013 including 5 TNCWS and 2 CWS
  
- Long-Term Arsenic and Nitrate MCL Violations
  
- Schools and Daycares
  - ❑ Acute Violations
  - ❑ LCR monitoring/reporting (M/R) and treatment technique violations
  - ❑ Stage 1 M/R and MCL violations
  - ❑ Lead Consumer Notification Requirements

# Region 5 PWS Inventory

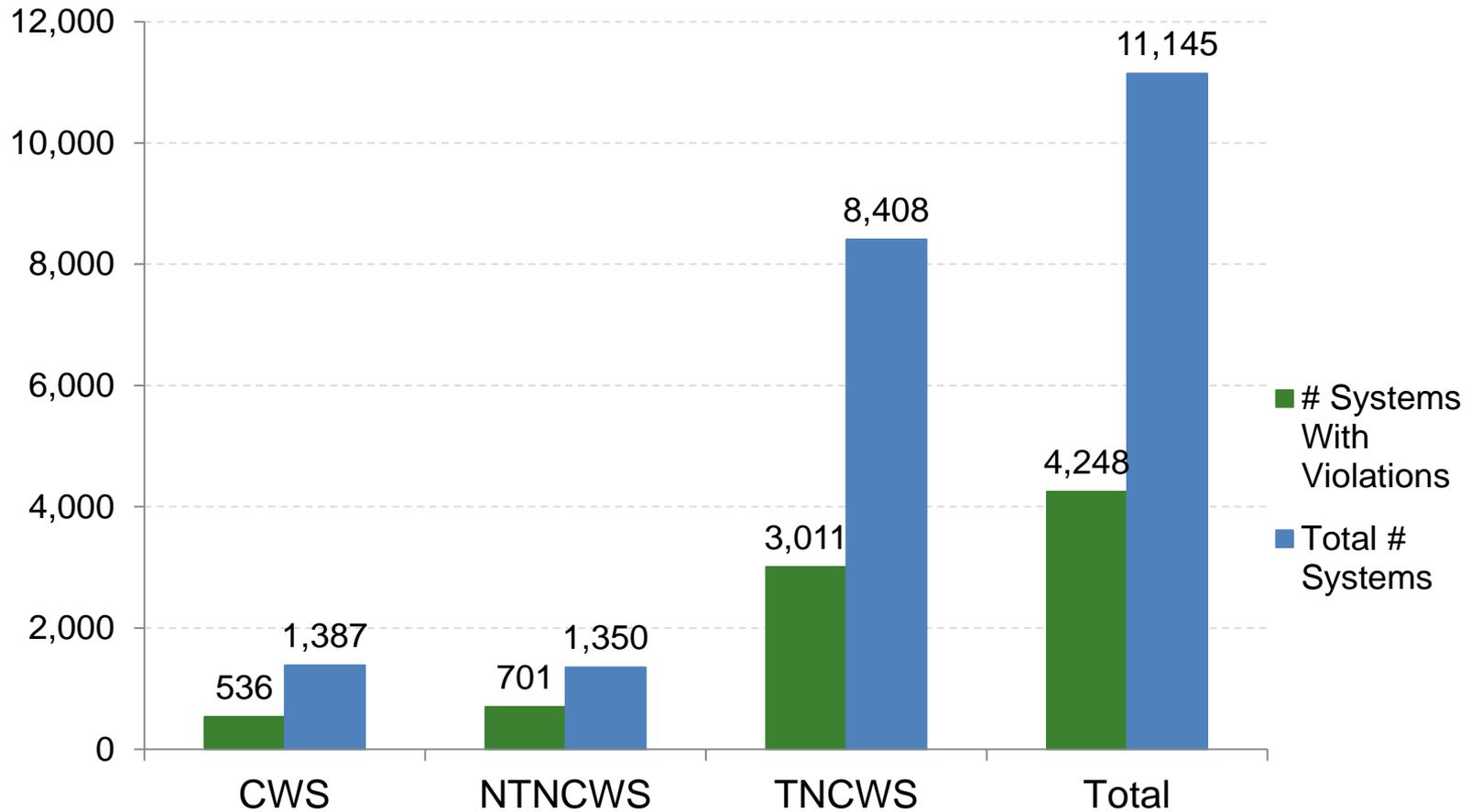


PWS Type	Tribal	IL	IN	MI	MN	OH	WI
TNCWS	9	3683	2873	8808	6277	3192	9450
NTNCWS	27	393	675	1610	563	947	896
CWS	79	1781	839	1436	967	1322	1088

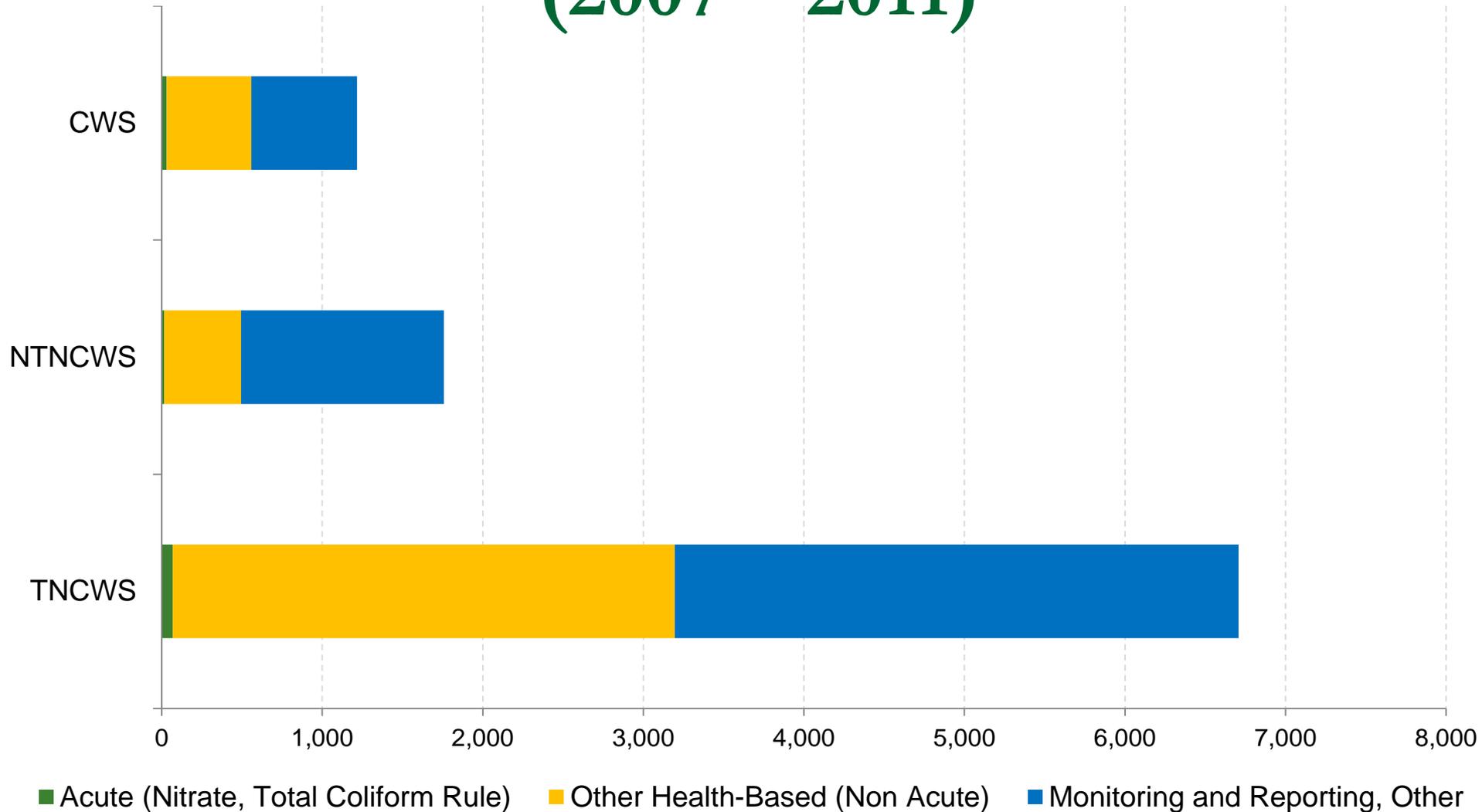
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**Michigan Noncommunity  
Water System Violations  
Calendar Years 2007 – 2011**  
*ETT Data from April 2012 SDWIS Freeze*

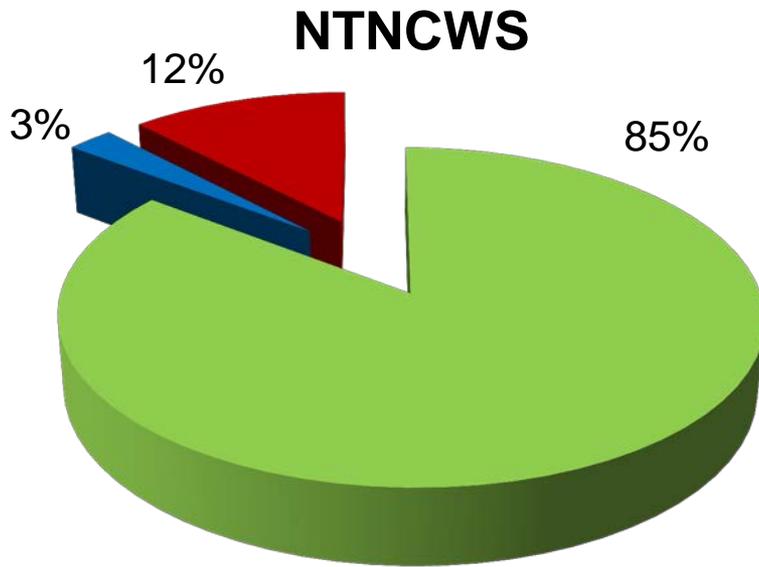
# Michigan Systems with Any Violations (2007 – 2011)



# Count of Michigan Violations (2007 – 2011)



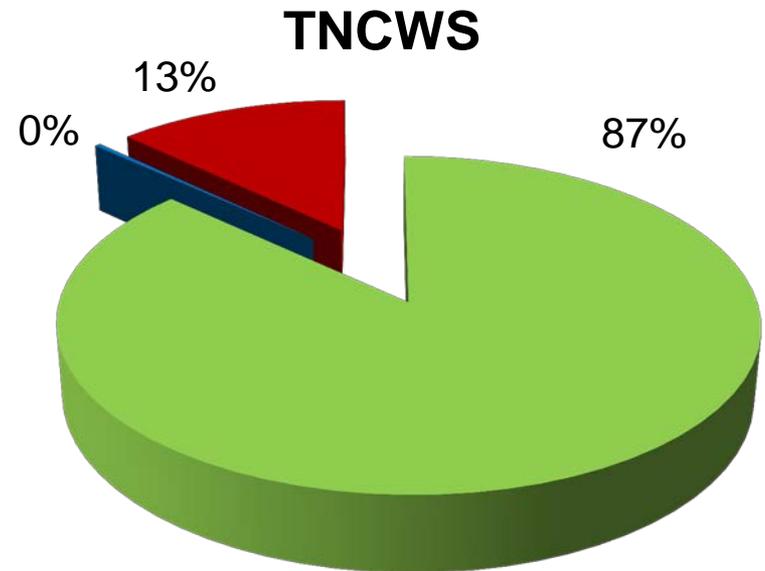
# Enforcement Status of Violations (2007 – 2011)



■ Violations Returned to Compliance (RTC)

■ Violations Addressed with Formal Enforcement Action but Not RTC

■ Violations Not RTC



■ Violations Returned to Compliance (RTC)

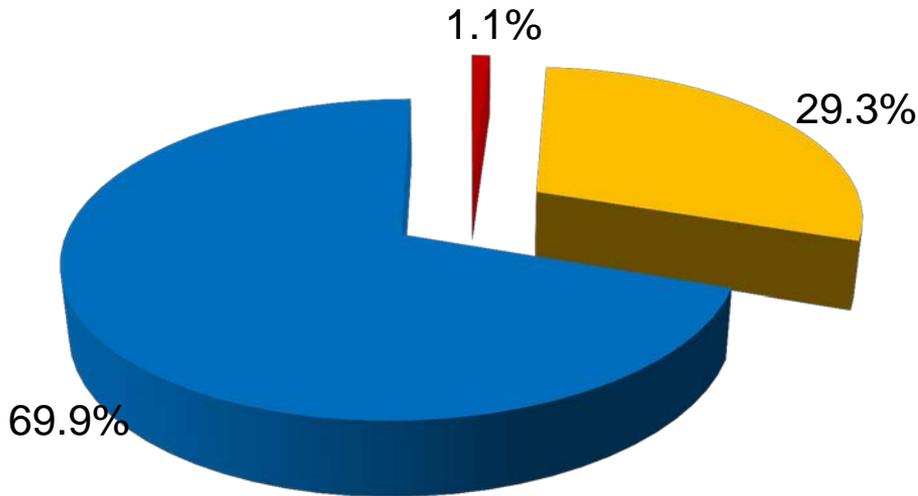
■ Violations Addressed with Formal Enforcement Action but Not RTC

■ Violations Not RTC

# Severity of Violations not Returned to Compliance: (2007 – 2011)

## NTNCWS

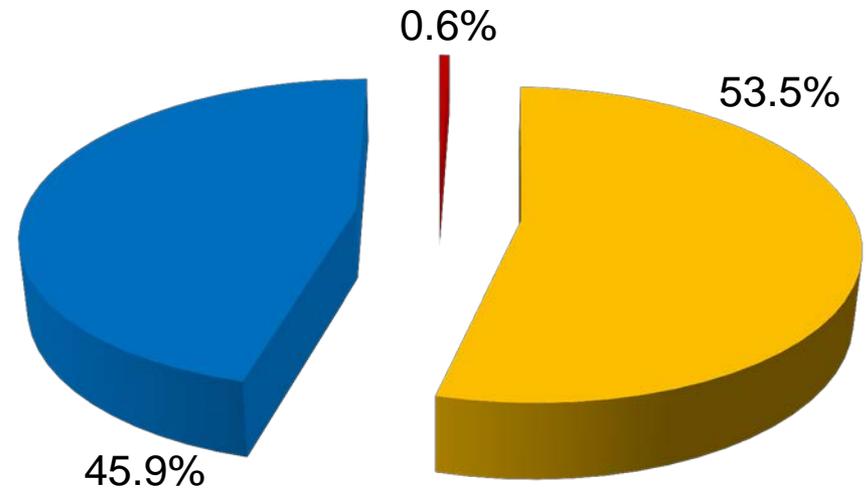
Total of 256 Violations



- Acute (Severity Factor of 10)
- Other Health-Based (Non-Acute) and TCR M/R Repeats, Nitrate M/R (Severity Factor of 5)
- Monitoring/Reporting, Public Notice, and Others (Severity Factor of 1)

## TNCWS

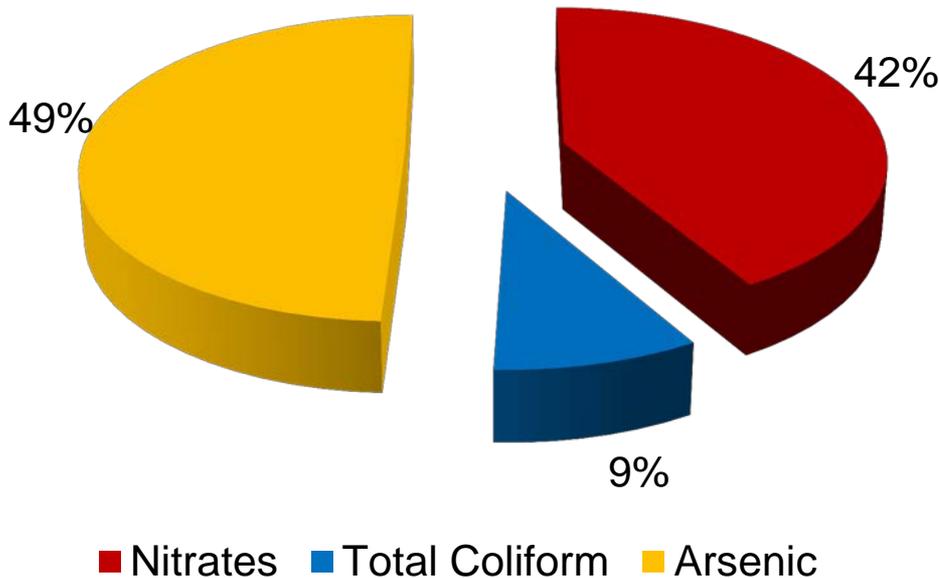
Total of 878 Violations



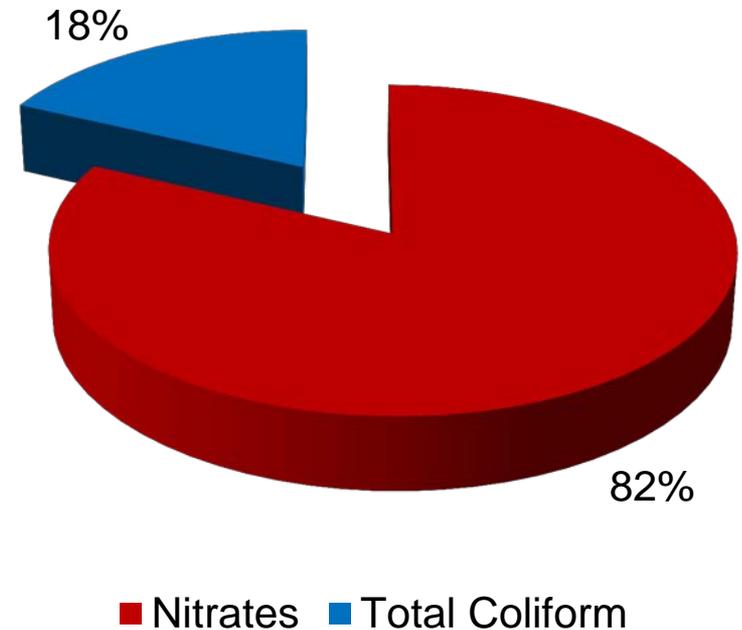
- Acute (Severity Factor of 10)
- Other Health-Based (Non-Acute) and TCR M/R Repeats, Nitrate M/R (Severity Factor of 5)
- Monitoring/Reporting, Public Notice, and Others (Severity Factor of 1)

# Violations with Severity Factors of 10 & 5 not Returned to Compliance by Rule (2007 – 2011)

**NTNCWS**  
Total of 77 Violations



**TNCWS**  
Total of 475 Violations



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# Michigan Noncommunity Water Supply Program Progress and Next Steps

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# NCWS Program Results in 2012

- 94.6% of NTNCWSs received water that meets health-based drinking water standards. (R5 goal is 95%)
- 97.5% of TNCWSs received water that meets health-based drinking water standards. (R5 goal is 95%)
- 5.6% of NTNCWSs had significant/major monitoring violations for **acute** health risks. (R5 goal is less than 5%)
- 7.9% of TNCWSs had significant/major monitoring violations for **acute** health risks. (R5 goal is less than 10%)
- 4.8% of NTNCWSs had significant/major monitoring violations for chronic health risks. (R5 goal is less than 10%)
- 7.9% of TNCWSs had significant/major monitoring violations for all rules. (R5 goal is less than 10%)

# Sanitary Surveys

## Percent of Ground Water Systems with Completed Sanitary Surveys October 2012 SDWIS Data



# Lead Consumer Notification Requirements

- Public water supplies are required to provide notification of **all** lead monitoring results to drinking water consumers in buildings where lead samples are collected. *Rule 325.10410, subrule (5)*
- EPA is assisting MDEQ with meeting this requirement at schools and daycares and sent letters in January 2013.
- EPA is taking special interest in school and daycare water supplies since there is no demonstrated safe level of lead exposure.
- Children six years old and younger as well as pregnant women are at particular risk to the health effects of lead.
- Sampling for lead and copper should occur between June and Sept.
- Upon receipt of results, MDEQ will contact the water supply to advise how to proceed to meet these requirements.

# EPA Region 5 Contact Information

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## Questions?

## Thank you for your time.

# Happy Earth Day!

