

FY2018 Michigan PWSS Program Enforcement and Compliance Assistance Work Plan Summary October 1, 2017 to September 30, 2018 Federal funding used: PWSS grant, DWSRF set-asides	
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Expectations	Evaluate compliance with all rules, and respond to violations by providing compliance assistance or enforcement as appropriate. Keep adequate records of pertinent state decisions. R5 continues to look to states to refer noncompliant PWS.
Region 5 Assistance	<p>Each quarter, send MI-CWS and MI-NCWS the latest Enforcement Targeting Tool (ETT) data along with a request for referrals and updates on priority systems. R5 integrates these updates into reports before the next request is sent out. Quarterly letters containing the October and April SDWIS/Fed data will also request updates on recent lead action level exceedances.</p> <p>Assist with referrals, enhanced data exchange, analysis, data clean-up, or other joint efforts as requested by MI-CWS and MI-NCWS.</p> <p>Track state commitments under measure SDWA02 and update Michigan quarterly, engaging in discussion with states on progress as needed.</p>
State Commitment	<p>MDEQ will work with R5 on referrals and EV audits. MDEQ will continue to participate in enforcement calls with R5 and continue to report quarterly on status of water supplies appearing on the ETT.</p> <p>MDEQ's drinking water program operates under the department-wide enforcement strategy. PWSS-specific enforcement plans will be identified, reviewed and updated as necessary.</p> <p>MDEQ will conduct compliance assistance and enforcement activities at water systems to prevent systems from becoming priority systems. MDEQ will work to resolve violations in a timely manner.</p> <p>MDEQ will evaluate compliance and respond to all violations of drinking water standards, treatment techniques, monitoring requirements, and Tier 1 and 2 PN. These violations are highest priority due to the potential to directly impact public health. MDEQ will escalate enforcement where systems fail to return to compliance in a timely way or fail to comply with a schedule to comply.</p>
Discrepancies	<p>In FY 2018, there are 3 activities that MDEQ is currently not fully implementing; largely due to inadequate data management tools and resource limitations:</p> <ol style="list-style-type: none"> 1. NCWS Data Management Limitations: MDEQ is able to report some violations to SDWIS-Fed, but not all violations. Work is underway to move the NCWS data management system to SDWIS-State; please see FY 2017 Implementation Plan (dated Oct 4, 2017)

	<p>2. Issuance of Tier 3 Public Notice (PN) Violations: due to resource limitations, MDEQ has only followed up on Tier 1/Tier 2 PN violations. Beginning July 1, 2018, MDEQ will post on its website all Tier 3 PN violations, until it can achieve full implementation. Please see FY 2017 Implementation Plan (dated Oct 4, 2017)</p> <p>3. Issuance of Reporting Violations: due to resource limitations, MDEQ placed a lower priority on enforcement of missed reporting deadlines when the data was taken within the proper timeframes, but results were submitted to the State after the deadline. State has outlined commitments. Please see FY 2017 Implementation Plan (dated Oct 4, 2017)</p> <p>Region 5 tracks progress related to state and EPA efforts to obtain additional resources necessary to enable MDEQ to fully implement NCWS violation reporting, report Tier 3 PN violations, and issue reporting violations related to late reporting of required sample results.</p>
<p>Milestones</p>	<p>Each quarter, Michigan updates SDWIS/FED with state enforcement data.</p> <p>Annually, by July 1, prepare and submit an ACR. The ACRs are available in a new interactive digital dashboard format. Click here for more information about EPA's Drinking Water Dashboard.</p> <p>Please indicate whether the state's enforcement strategy is current/relevant and if not, plans to update it. <i>One of the enforcement findings from the April 2016 Enforcement Verification was that MDEQ did not provide a comprehensive compliance/enforcement strategy for the drinking water program. EPA requested that DWMAD use EPA's ERP as a model for developing its drinking water program compliance and enforcement strategy. (See Corrective Action Plan)</i></p> <p>Michigan's 2017 ETT commitment was to address or resolve 27 systems. Michigan's FFY 2017 end-of-year results show that Michigan had addressed 57 systems from the original 27 on the July 2016 fixed base list plus an additional 30 that had become priority systems after July 2016. <i>(See Corrective Action Plan)</i></p> <p>MDEQ/R5 worked together on a work-sharing project to issue NOVs to NTNCWSs that sampled for lead outside June – Sept timeframe in summer 2016 (for FY 2015 violators), and summer 2017 (for FY 2016) violators. MDEQ has requested R5's assistance in working on the next effort, which is to focus on NTNCWSs that sampled for lead outside June-Sept 2017 timeframe during summer 2018.</p>
<p>Self-Assessment and Evaluation</p>	<p>See excerpt below from EPA's FY 2015/FY 2016 End-of-Year Evaluation Report, dated Dec 18, 2017, regarding Michigan's compliance and enforcement program.</p>

	<p>See below for a list of Enforcement recommendations from the most recent Enforcement Verification, dated Oct 24, 2017. Progress will be documented in the State’s Corrective Action Plan, when final, will be attached to this workplan.</p> <p>State staff was very supportive of EPA’s file review conducted in April 2016, and in reviewing the draft, and providing constructive comments to the draft report.</p>
<p>Relevant Attachments/References</p>	<p>SPMs—Include relevant attachments/references:</p> <ul style="list-style-type: none"> ▪ ACR (The ACRs are available in a new interactive digital dashboard format. Click here for more information about EPA’s Drinking Water Dashboard.) ▪ File review and enforcement verification report: https://www.epa.gov/mi/2016-michigan-drinking-water-program-review <p><i>Optional:</i> State web pages, policies, etc. are generally optional to include as relevant attachments/references.</p> <ul style="list-style-type: none"> ▪ State compliance strategy ▪ SOPs

Excerpt from EPA’s FY 2015/FY 2016 End-of-Year Evaluation Report, dated Dec 18, 2017, regarding Michigan’s compliance and enforcement program.

Compliance and Enforcement Management:

EPA Region 5 tracks State commitments under EPA’s Office of Enforcement and Compliance Assurance (OECA) measure SDWA02 and updates MDEQ quarterly. MDEQ committed to address or resolve 31 systems in FY 2015, and MDEQ addressed (returned to compliance) 34 priority systems. In FY 2016, Michigan committed to address or resolve 27 systems, and Michigan addressed (returned to compliance) 57 priority systems.

To summarize MDEQ enforcement in FY 2015:

- Two CWSs were referred to the State Attorney General (AG); neither system has returned to compliance;
- Civil fines were issued to four CWSs; all systems have returned to compliance;
- Civil fines were issued to 27 NCWSs; 22 out of 27 systems returned to compliance, and 3 out of 5 remaining systems resolved some violations;
- MDEQ did not issue any Administrative Orders on federally-reportable violations, or refer any cases to EPA Region 5 for federal enforcement.

To summarize MDEQ enforcement in FY 2016:

- One CWS was issued a State Administrative Order on federally-reportable violations and the system has returned to compliance;
- Civil fines were issued to eight CWSs; six of these have returned to compliance;
- Civil fines were issued to 29 NCWSs for TCR and/or Nitrate monitoring violations and one NCWS for an Arsenic monitoring violation; all systems have returned to compliance; and,

- MDEQ did not refer any cases to EPA Region 5 for enforcement.

During FY 2015, MDEQ agreed to verify system classification designations of 30 Michigan Head Start systems. Inventory improvement with regard to service area classification is ongoing. In FY 2016, MDEQ proposed implementing lead and copper sampling at transient noncommunity water system (TNCWS) Head Start systems. EPA Region 5 continues to follow-up with the State regarding the accuracy of service area classification, especially as related to systems that serve children.

EPA Region 5 continues to see progress in the State's efforts to reduce the number of NTNCWSs' long-term use of bottled water for arsenic non-compliance. Approximately 25% of these systems are still using bottled water for arsenic noncompliance. Due to a change in reporting of violations to SDWIS/Fed, the NCWS program notified these systems that they must begin quarterly monitoring for arsenic. Systems using bottled water for arsenic non-compliance are required to provide public notice until an alternate source is found or treatment is installed and the systems return to compliance. Schools and daycares have been prioritized to return to compliance. Each quarter, EPA Region 5 assesses MDEQ's progress in getting systems off of bottled water; progress has been slow. No timeframe has been established to return these systems to compliance; however, MDEQ continues to work with these systems to replace bottled water with a permanent solution to arsenic exceedances. New NTNCWSs in violation of the arsenic standard should be addressed through State formal enforcement, which includes a plan and schedule to return the system to compliance. This plan can include a short-term provision of bottled water, until the system returns to compliance with the arsenic standard

Enforcement Verification Report Recommendations (October 24, 2017) On-site visit conducted April 2016

--MDEQ should expand compliance/enforcement follow-up procedures to include procedures for PN requirements as well as Stage 1 and Stage 2 DBPR M/R and MCL violations. *(See Corrective Action Plan)*

--MDEQ should issue a violation notice for all violations, once they are determined, in order to provide the PWS with public notice documentation and return to compliance information in a timely manner. These notices should be kept in the PWS file and reported to SDWIS/State and SDWIS/Fed as SIA enforcement actions. *(See Corrective Action Plan)*

--All LHDs should adopt DWMAD policy/procedures for administrative fines for M/R violations as well as violations of state Drinking Water Standards. *(See Corrective Action Plan)*

--Per MDEQ's 2014 Noncommunity Program Staff Reference Manual, MDEQ should ensure that all LHDs contact systems that had a total coliform-positive routine sample in a timely manner to remind them to collect repeat samples and to issue a timely violation notice to systems that fail to comply. *(See Corrective Action Plan)*

--MDEQ should ensure that all LHDs are tracking PWS compliance with monitoring requirements, generating RTCR M/R violations for the correct compliance period, and updating

WaterTrack when they instruct systems to increase to quarterly RTRC monitoring so systems receive quarterly monitoring reminders and violations. *(See Corrective Action Plan)*

--All LHDs should adopt DWMAD policy/procedures for administrative fines for M/R violations as well as violations of State Drinking Water Standards. *(See Corrective Action Plan)*

--LHDs should maintain the use of standard compliance periods for quarterly total coliform compliance monitoring rather than setting new due dates for monitoring. *(See Corrective Action Plan)*

--MDEQ should ensure that all LHDs instruct GW PWSs that do not provide at least 4-log treatment of viruses to collect, within 24 hours of notification of the total coliform positive sample, at least one GW source sample from each GW source in use at the time the total coliform positive sample was collected. *(See Corrective Action Plan)*

--MDEQ should follow up with systems that fail to conduct GWR-triggered source water monitoring; and report all triggered source-water M/R violations at NCWSs after it is able to generate and submit these violations to SDWIS/Fed. *(See Corrective Action Plan)*

--LHDs should contact NCWSs that have a nitrate routine sample that exceeds 10mg/L to remind them to collect a confirmation sample within 24 hours of the system's receipt of the sample results, and, if the system is unable to comply with the 24-hour sampling requirement, to instruct it to immediately provide PN to persons served by the water system in accordance with Tier 1 PN requirements. *(See Corrective Action Plan)*

--MDEQ should require LHD staff to conduct an immediate field inspection following nitrate MCL violations at childcare facilities serving infants to ensure that PN is posted and bottled water is being used. *(See Corrective Action Plan)*

--The LHD should have notified MDHHS, the licensing agency responsible for overseeing the system, about the nitrate MCL violation as required by the 2014 Noncommunity Program Staff Reference Manual. *(See Corrective Action Plan)*

--EPA recommends that the LHD place The Hop Childcare Center PWS back on quarterly nitrate monitoring as long as it continues to use Well 001. (The infant/toddler program was moved from the building served by Well 002 to the building served by Well 001.) Well 001 has a history of periodic nitrate levels over or near the MCL. *(See Corrective Action Plan)*

--All PWSs that were previously on bottled water agreements and are not yet returned to compliance should be escalated to formal enforcement until an alternate source is found or treatment is installed, to ensure system monitors for arsenic on a quarterly basis, provides alternate water, and provides public notice. *(See Corrective Action Plan)*

--MDEQ should maintain complete State files with written documentation of exchanges with the PWS and track the progress of the systems in returning to compliance including appropriate follow-up after a lead ALE. (There was little evidence that appropriate follow-up was conducted for the 3 lead ALEs that were reviewed during the program review.) *(See Corrective Action Plan)*

--An administrative fine for failure to submit a corrosion control proposal, and two administrative fines for LCR M/R violations could have been issued per DWMAD's policy and procedures for administrative fines. *(See Corrective Action Plan)*

--NTNCWSs that serve 25-100 people should be required to collect 5 lead and copper samples unless they have fewer than 5 drinking water taps that can be used for human consumption, in

which case, they should be required to sample all the taps than can be used for human consumption. *(See Corrective Action Plan)*

--The LHD should have followed up with the system on the June 12, 2012 lead and copper ALEs as soon as it received the sample results. *(See Corrective Action Plan)*

--The LHD's October 21, 2013 letter to the system's certified operator should have questioned if the samples, which were all taken between 5:30pm and 6:00pm on a non-holiday weekday, were first draw samples after the water had stagnated for at least 6 hours as required. *(See Corrective Action Plan)*

--MDEQ should emphasize in certified operator and noncommunity program staff training that lead and copper samples must be first draw after the water has stagnated for at least 6 hours, as required by the LCR. LHDs and MDEQ should require systems that collect a non-first draw lead and copper sample(s) to collect another lead and copper sample(s) that is first-draw. *(See Corrective Action Plan)*

--The LHD/MDEQ should have issued the January 21, 2014 NOV sooner for the PE TT violation since the NOV indicated that the violation began on June 1, 2013. *(See Corrective Action Plan)*

--LHD/MDEQ should have entered the system's June 1, 2013 open-ended PE TT violation into SDWIS instead of linking the March 18, 2013 SFG enforcement action code to the system's January 1, 2013 LCR M/R violation for the July-December 2012 compliance period. *(See Corrective Action Plan)*

--LHD's and MDEQ's first priorities after the initial lead ALE in June 2012 should have been to use every available means to prevent use of the drinking water taps in the daycare center. The LHD and MDEQ should have made sure employees and customers of the four businesses served by the system and parents of children in the daycare were notified of the lead ALE and lead sample results, the health effects of lead, and steps to reduce exposure to lead in drinking water, so they could make informed decisions regarding using the water. *(See Corrective Action Plan)*

--While not required per the Federal LCR or MDEQ SOPs, the letters issued by LHDs for lead ALEs to childcare centers and schools that serve children, especially those under six years of age, should quickly address the ALE by having the system shut off the tap(s) with high levels, replace the fixtures at those taps or provide bottled water until the lead ALE is resolved. *(See Corrective Action Plan)*

--LHDs/MDEQ should escalate enforcement for LCR TT violations following lead ALEs, including consideration of using MDEQ's emergency order authority. *(See Corrective Action Plan)*

--The LHDs and MDEQ should report all lead and copper ALEs to SDWIS/Fed in a timely manner. *(See Corrective Action Plan)*

--LHDs/MDEQ need to escalate enforcement for lead ALEs when systems fail to follow LHD recommendations for resolving the lead ALEs, including the possible use of the State's emergency authority under Michigan SDWA Section 15 (Section 325.1015). *(See Corrective Action Plan)*

--MDEQ should have reported two TTHM MCL violations for Flint, for the first and second quarters of 2015 on time. Not reporting these violations on time affected ETT scoring, preventing Flint from becoming a priority system sooner (on October 2015 ETT). *(See Corrective Action Plan)*

--MDEQ should have included written documentation in the system file that MDEQ had notified the Beaver Township PWS that it had TTHM MCL violations for CQ1 of 2015, and CQ3 of 2015, and required the system to provide PN for these violations. *(See Corrective Action Plan)*

--MDEQ should have escalated the enforcement of Beaver Township as part of MDEQ's commitment to EPA's 2009 ERP to address or return to compliance PWSs with ETT scores of 11 or more within six months of a system becoming a priority. *(See Corrective Action Plan)*

--EPA urges that MDEQ maintain more complete records of PNs received and issue violations to PWSs that fail to provide tier 1 or Tier 2 PNs. *(See Corrective Action Plan)*

--Chapter 6.8 Arsenic Monitoring of the 2014 Noncommunity Program Staff Reference Manual should be corrected on page 6-28 to state that public notice for the MCL violation is required within 30 days of the violation instead of within 60 days of the violation. *(See Corrective Action Plan)*

--EPA urges MDEQ to develop a written compliance and enforcement strategy for the Office of Drinking Water and Municipal Assistance, as well as an SOP for escalated enforcement action that highlights the need for documentation of compliance assistance communications and PWS follow-up in State enforcement files. *(See Corrective Action Plan)*