



Lead in Drinking Water:

A Primer for Water Systems and Suppliers

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OVERVIEW OF PRESENTATION

- Critical issues for water systems and suppliers
- Legal framework
 - The Safe Drinking Water Act
 - The Lead and Copper Rule
 - State drinking water statutes and regulations
- Hot button issues associated with litigation
- Key practice aspects of drinking water litigation

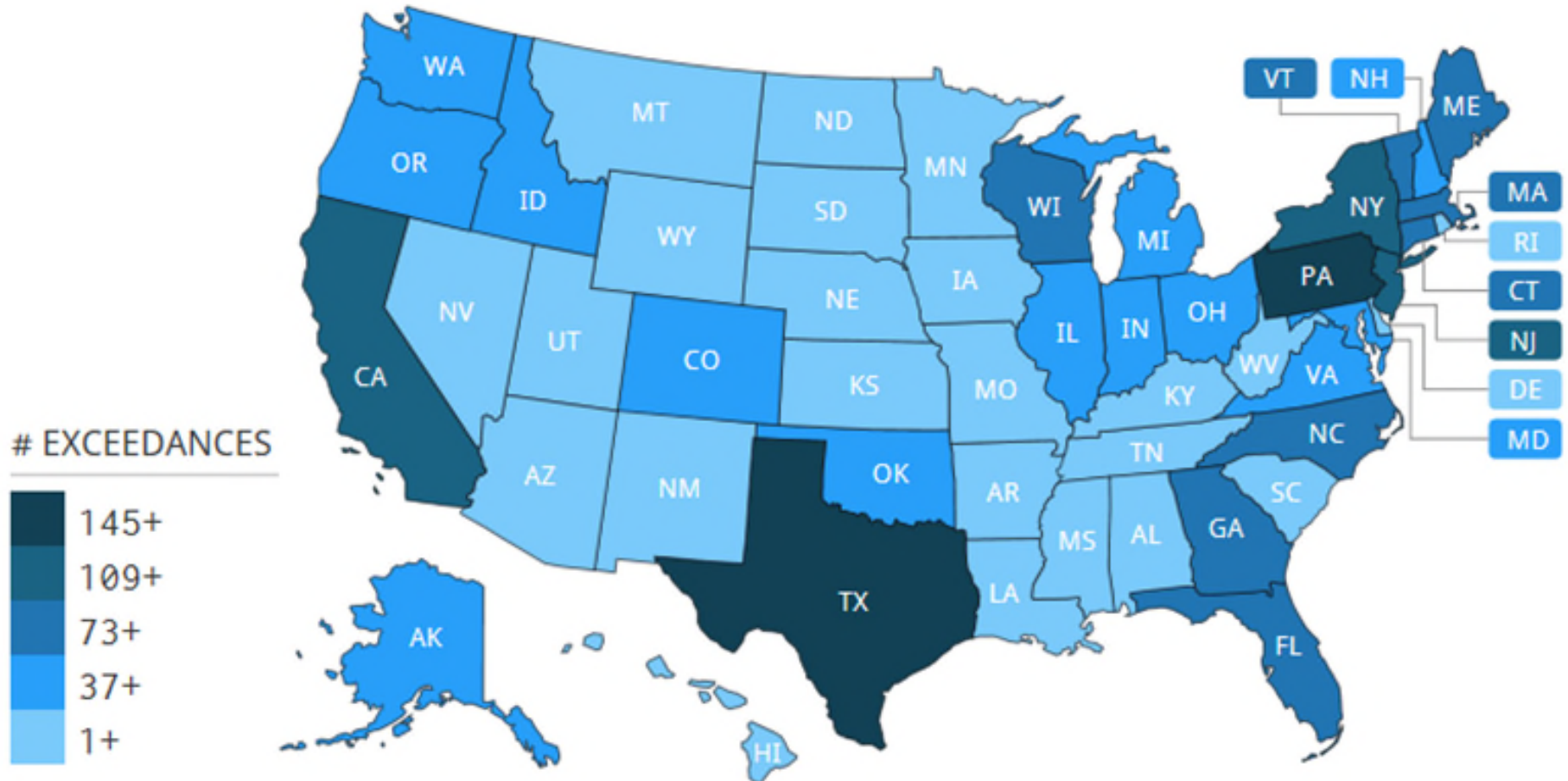
LEGAL FRAMEWORK

- Safe Drinking Water Act (SDWA), 42 U.S.C. §§300f et seq.
- Lead and Copper Rule (LCR), 40 C.F.R. § 141.80
- SDWA Regulations, 40 C.F.R. § 142.1
- State statutory and regulatory requirements

HOT BUTTON ISSUES

- The LCR is a treatment standard, not a health-based standard. At its most basic level, it requires water systems to:
 - Conduct periodic monitoring of lead in tap water
 - Optimize corrosion control
 - Note: the 15 ppb “action level” is not a health-based maximum contaminant level (MCL)
- Potential issues
 - Optimizing corrosion control
 - Sampling
 - Monitoring
 - Changes in corrosion control treatment or addition of new water sources
 - Special factors
 - Lead is a naturally occurring element
 - Public health authorities have determined that there is no safe exposure level for lead
- Relationships with states and EPA

NATIONWIDE ACTION LEVEL EXCEEDANCES



SOURCE: USA TODAY analysis of EPA's Safe Drinking Water Information System (SDWIS) database. (March 16, 2016)

KEY PRACTICE ASPECTS

Typical claims

- Breach of contract
- Unjust enrichment
- Breach of implied warranties
- Violation of state consumer protection acts
- Trespass
- Public and private nuisance
- Negligence, gross negligence, professional negligence
- Conversion
- Intentional and negligent infliction of emotional distress
- Violations of the safe drinking water act
- Federal constitutional claims under 42 U.S.C. § 1983 and 42 § U.S.C. 1985 relating to deprivation of property interests, equal protection, state-created danger, due process, bodily integrity, and right to contact

QUESTIONS?



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THANK YOU

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