



Lead in Drinking Water:

A Primer for Water Systems and Suppliers

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Jane C. Luxton
Clark Hill PLC
601 Pennsylvania Ave., NW
North Building, Suite 1000
Washington, DC 20004
202.572.8674

Michael J. Pattwell
Clark Hill PLC
212 East Grand River Ave
Lansing, MI 48906
517.318.3043

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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

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?



Jane C. Luxton

202.572.8674

jluxton@clarkhill.com



Michael J. Pattwell

517.318.3043

mpattwell@clarkhill.com

THANK YOU

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