

Alert

Should Schools Test Their Drinking Water?

April 25, 2016

With the recent news coverage that has brought to light the potential for elevated lead levels in drinking water, it is a good time for schools to review what the law requires. Currently, there is no legal requirement for either private or public schools to test their drinking water for lead, so long as the source of the water is a public water supplier, such as the local municipality. If the water supply is private, for instance a well, lead testing is required.

Why test for lead if your school is using public water?

Although public water suppliers must monitor water for lead at treatment plants, lead could leach undetected into a school's drinking water through contact with the school's plumbing system containing lead, including lead-containing pipes, fixtures or solder. As a result, water from drinking fountains and from classroom, bathroom and cafeteria faucets could contain elevated levels of lead, particularly in schools constructed prior to the June 1986 federal ban on using plumbing fixtures containing more than 8 percent lead.

Just last month, the Newark, N.J. school system, which is on public water, identified lead in drinking water above the U.S. Environmental Protection Agency's action level of 15 parts per billion at 30 of its schools. In February of this year, elevated levels of lead were also identified in schools in Ithaca, N.Y. and in Binghamton, N.Y. Lead is a neurotoxin that, when ingested over a period of time, has a cumulative effect with the potential to impair development, behavior and learning ability in children. To address this issue, state legislation was recently proposed in New York that would require drinking water testing in all schools by the local water district. The bill, which was introduced by Assemblywoman Barbara Lifton on March 24, 2016, would also require schools to post the results of the testing on the school's website and to provide written notification to parents if lead levels exceed 15 parts per billion.

If a school chooses to test its drinking water for lead, there are many resources available on how, when and where to test, including several guidelines published by the U.S. Environmental Protection Agency, available on its website at www.epa.gov/dwreginfo/lead-drinking-water-schools-and-child-care-facilities.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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