

## LEAD LIMITS OF ACT 193 RESULT IN UNEXPECTED COSTS FOR MUNICIPALITIES

Vermont's Lead in Consumer Product's Law (Act 193) contains limits on lead in plumbing fixtures under Statute 9 V.S.A § 2479h. The language of the statute is as follows:

*“Beginning January 1, 2010, no person shall sell or offer for sale in or into the state of Vermont, or use in the state of Vermont, solder or flux for plumbing containing more than 0.2 percent lead, or plumbing fixtures whose wetted surfaces contain more than a weighted average of 0.25 percent lead.”*

Perhaps the original intent of the law was to prohibit plumbers from installing internal plumbing components and fixtures that have more than 0.25% lead. In fact, the November 24, 2009 notice from the Attorney General's office was mailed to only plumbers and plumbing supply houses. The letter sent with the notice stated in bold print **“If you sell plumbing supplies, work as a plumber, need to install plumbing in your business, or plan or construct buildings in Vermont, please read this letter.”** Noticeably absent was mention of municipal officials, contractors, or engineers.

But according to the Attorney General's Guidance issued November 18, 2009, it is his opinion that the new law applies to all items used to convey or dispense water for drinking. Pipe, fittings, valves, corporations, and curb stops are included in a list of fixtures that are subject to the new statutory limit on lead. The Attorney General's Office confirms that these municipal water transmission and distribution system components “do not fit within the statutory definition of plumbing fixtures” but in his opinion these items are subject to this new law. The AG's Guidance states that the law draws no distinction between plumbing fixtures located inside and outside a home or other building, and he interprets that no distinction is intended. In contrast, the VT Plumbing Code defines a plumbing fixture as “A receptacle or device that is either permanently or temporarily connected to the water distribution system of the premises.” But under the statute, the term "plumbing fixtures" means pipe, fittings, and fixtures used to convey or dispense water for human consumption.

Water systems have long been required to comply with the Vermont Water Supply Rule and federal regulations as enforced by the Environmental Protection Agency (EPA). EPA limits the level of lead in drinking water under the Safe Drinking Water Act and the Lead and Copper Rule. Under the Safe Drinking Water Act, “lead free” means pipes and fittings that are less than 8% lead. The Lead and Copper Rule requires water systems to implement treatment to control corrosion of lead and copper containing plumbing materials based on sampling at the customer tap. It has generally been evident that in most water systems the major source of lead and copper was from the customer's own plumbing fixtures and not from water distribution components.

Under this interpretation, as of January 1, 2010, a town water department replacing a curb stop can't use a standard valve from their inventory but must now purchase a new low lead curb stop. Low lead curb stops and corporations are about 150% of the price of a normal curb stops and corporations which are still allowed for use in all states except Vermont and California. In fact, the brass parts inventory for most water systems becomes worthless under the Attorney General's interpretation of this new law.

Construction contracts in progress must comply with the Attorney General's interpretation of the new law and although conventional valves and brass could be used in 2009, these items are not allowed in 2010. This means change orders for water system construction projects and additional costs for communities.

