WHITE PAPER

Virginia School Plant Management Association

Virginia Public Schools Strategy for Consistent and Successful Compliance with Drinking Water Lead Testing.

SB 1359, *Code of Virginia Section* 22.1-135.1

May, 2018

"To Mitigate Risk and Maximize Compliance with Complex New Regulations Pertaining to Lead Testing Potable Water in Virginia Schools"

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SB 1359

*Enacted March 20, 2017

*Mandates lead testing of potable water sources in schools

*Requires local school divisions to develop and implement a local plan

Title: Virginia Public Schools Strategy for Consistent and Successful Compliance with Drinking Water Lead Testing"" (SB 1359)

Date: May 4, 2018

Introduction: The Virginia School Plant Management Association (VSPMA) is a professional organization whose mission is to be a source of information for Virginia K-12 facility leaders on emerging facility management issues. It is a vehicle for collaboration and strengthens the exchange of information between school facility professionals and provides continuing education on legislation, professional development, and organizational benchmarking.

Background: SB 1359 (potable water lead testing in Virginia schools) was passed by the Virginia General Assembly in 2017. Local school divisions are mandated to develop and implement a plan to test and, if necessary, remediate potable water sources available for consumption.

Challenges of Legislation

Areas lacking Guidance; subject to interpretation:

*Procedure

*Frequency

*Thresholds

*Documentation

*Reporting

Challenge: The legislation leaves implementation of SB 1359/*Code of Virginia Section* 22.1-135.1 to the jurisdiction of each local school board. It is silent in the following areas:

1. Procedure and frequency
2. Sample size and threshold
3. Documentation and reporting

Action: The Virginia School Plant Management Association, representing K-12 facility leaders conducted a forum to discuss, clarify, and resolve the challenges presented by the legislation. The forum was conducted on October16, 2017 at the 10TH Annual VSPMA Conference. Panel participants included Mr. Jim Moore, Virginia Department of Health; Office of Drinking Water (Lexington Field Office), and Mr. Hunter Barnes, Virginia Department of Education; Office of Support Services.

SB 1359 vs. LCR

SB 1359 & EPA "3T's":

*250 ml. sample size
*Applies to all taps/ sources of potable water
*15 ppb lead trigger

Lead & Copper Rule "LCR"

*1 litter sample size
*15 ppb lead trigger
*Limited specific sample sites
*Applies to schools operating their own permitted waterworks

20 ppb vs. 15 ppb; SB 1359 vs. Lead & Copper Rule for Permitted Waterworks Operators; *"comparing apples to oranges"*

This has been and seemingly appears to remain an area of confusion and contention. SB 1359 is based upon EPA's "3T's" guidance: 250 ml. sample size and a 15 ppb lead trigger, applied to each sample tap tested.
The 15 ppb lead trigger level applies to the Lead and Copper Rule (LCR) for "Permitted Waterworks Operators". For our purposes this entails school divisions that operate their own water system; ie: a well. This is totally separate and distinct from SB 1359. Divisions under this designation will continue to be subject to the provisions thereof; they will continue to test on a 3- year rotating testing cycle (sampling once every three years) of sampling locations designated by the Department of Health/Office of Drinking Water. This involves a distinct sample size and trigger; the sample size is 1 litter with a 15 ppb trigger. A considerably larger sample size than that used in conjunction with SB 1359. A whole other "apple" and NOT the subject of our immediate concern and clarification. It is offered now only to bring clarity to the distinction. **The PowerPoint slide of Mr. Jim Moore, VDH/ODW is attached at bottom for your reference*

Where to Sample

*Drinking fountains
*Kitchen sinks
*Classroom sinks; home economics, SPED, combination sinks
*Teacher lounge sinks
* Nurse's office sinks
*Any sink known to be or visibly used for consumption
*Schools built before 1989 "High Priority"

Where to sample: The United States Environmental Protection Agency "3t's" identifies the following sources as high priority: Drinking fountains (both bubbler and water cooler style), kitchen sinks, classroom combination sinks and drinking fountains, home economic rooms sinks, teacher's lounge sink, nurse's office sink, classroom sinks in special education classrooms, any sink known to be or visibly used for consumption (eg, coffee maker or cups are nearby). Code of Virginia Section 122.1-135.1 designates schools constructed in whole or in part before 1989 as priority schools. Though not specifically addressed the VSPMA recommends the testing of ice machine water sources and fixtures as well. The EPA Drinking Water Requirements for States and Public Water Systems issues the following additional advisory as well: "*any outlet for potable water is a potential source of drinking water. Some outlets are regularly used by students and staff for drinking, cooking, or making coffee. Others, like a mop sink in a utility closet, may rarely be used. With limited funds, prioritize sampling sites based on potential use and risk. Also, consider that actual use can change over time. For example, few may drink from an art room sink, but that room's use may change".*

Recommended

*Local school board developed plans
*Mandated initial testing required
*15 ppb threshold per EPA "3T's"
*Additional testing recommended and at the discretion of local school boards
*Local record retention

Resolutions: Virginia public schools divisions will develop and implement a local plan to conduct initial testing of potable drinking water sources and fixtures as identified in the EPA "3T'S". Per the EPA guidelines 20 ppb lead is the recognized benchmark/threshold level triggering additional testing or remediation. At their discretion local school boards may elect to establish more a more stringent trigger level (i.e. 15 ppb consistent with Lead and Copper Rule). Though not currently required by the Departments of Health or Education additional testing is recommended; the frequency of such is at the discretion of the local school division and in accordance to their locally developed plan. Documentation and recording of testing and results shall remain in the custody of the local school division. Documentation should be retained and made available upon request by the Virginia Department of Health and/or Virginia Department of Education.

Conclusion: As the professional organization and voice of Virginia K-12 facility leaders the Virginia School Plant Management Association will continue to collaborate with the Department of Education and regulatory agencies to bring clarity and consistency in the development of and compliance with federal, state, and local facility-oriented mandates and safeguards. The VSPMA strategic plan promotes continuing education of school facility professionals, identifying formal training opportunities, providing educational forums, and strengthening the exchange of information between school facility professionals

References:

- Virginia SB 1359 "*Lead Testing of Potable Water"*
- Code of Virginia Section 22.1-135.1, "*Potable Water: Lead Testing*"
- Superintendents Memo #171-17 "*Mandatory Water Testing in Public Schools"*
- Mr. Jim Moore, Virginia Department of Health, Office of Drinking Water
- Mr. Marc Edwards, Virginia Tech
- EPA "3T's for Reducing Lead in Drinking Water in Schools"

For Additional Information: The VSPMA was founded upon the principal of building our future together and the goal of improving our school facilities through continued professional development. Please visit the VSPMA website at www.vspma.org