



Alliance of Nurses for Healthy Environments



July 31, 2019

Chair Joaquin Esquivel
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Director Kim Johnson
California Department of Social Services
744 P Street
Sacramento, CA 95814

Re: AB 2370 and Related Budget Allocation Implementation and Expenditure

Dear Chair Esquivel and Director Johnson:

We are writing to you regarding the State Water Resources Control Board's (Water Board) proposed AB 2370 Protocols and Sampling Guidelines that will guide the Department of Social Services' (DSS) implementation of AB 2370. We are also asking the Water Board and the DSS to take additional regulatory action to reduce the possibility that children will ingest lead from drinking water at child care centers.

As you know, passage of AB 2370 (Holden) in 2018 requires licensed child care centers to test their drinking water between 2020 and 2023 for lead contamination, and that DSS, in conjunction with the Water Board, to develop regulations by 2021 regarding the testing requirement. Although AB 2370 imposes a water-testing requirement on centers, the bill ultimately prohibits centers from serving children water containing elevated levels of lead.

The Budget Act of 2018-19 allocated \$5 million to the Water Board to pay for drinking water testing for lead at licensed child care centers and for remediation of lead in the centers' plumbing and drinking water fixtures. According to the Budget Act, the Water Board is to prioritize funding for centers that serve children zero to five years of age, with the highest priority for centers that serve children zero to three years of age. Centers that mostly care for children who received subsidized care, and that operate only one facility also receive funding priority.

We would additionally like to point out that state law, enacted in 2012, requires licensed child care facilities to "make clean and safe drinking water readily available and accessible for consumption throughout the day." And child care licensing regulations require facilities to "be clean, safe, and sanitary at all times to ensure the safety and well-being of children." The regulations also require facilities to provide potable drinking water from a "noncontaminating fixture or container" to children.

It is our understanding that the Water Board will use the AB 2370 Protocols and Sampling Guidelines to direct the board's use of the \$5 million allocation. We have also been told that DSS will reference the protocols and sampling guidelines when developing the AB 2370 compliance directive that will be sent to centers prior to January 1, 2020. Then, DSS will use the protocols and guidelines to inform DSS' promulgation of the program's final regulations.

In addition to the below specific actions that we ask that the Water Board undertake when implementing AB 2370, we also ask that the Water Board and DSS keep in mind the strong scientific consensus that any amount of lead exposure during childhood is harmful.

AB 2370 Implementation and Budget Allocation Expenditure

In light of the strong scientific consensus that there is no safe level of lead in children, especially in infants and toddlers, the undersigned stakeholder groups are submitting the following policy requests and recommendations:

1. We request both the Water Board and DSS adopt a goal of reducing lead in centers' drinking water to no more than 1 ppb.
2. For the purposes of collecting a more comprehensive dataset on lead occurrence in child care centers in California, we request the sample collection protocols require the contractor to collect a second draw of 250 mL of water, after a 30 or 60 second flush, when collecting samples at the centers. This additional collection of a flushed sample will provide the Water Board, DSS, and all stakeholders with more complete information about lead occurrence in drinking water in the centers.
3. As the grant-funded lead test results are collected and compiled, and before DSS' directives are finalized, we urge the Water Board to place those results and the protocols and guidelines again on the board's agenda for public discussion. The Water Board should also continue the review of its AB 2370 Protocols and Sampling Guidelines and allow the public to formally discuss those

protocols and guidelines, as well as the additional test results, once again before the final regulations are promulgated. The AB 2370 regulations do not have to be completed until 2021, so the Water Board and DSS will have the opportunity to fine-tune the guidelines based on the collected data and public input.

4. Finally, we request the Water Board to identify best practices for lead removal, which might enhance remediation, that the centers can employ to reduce lead in their drinking water to 1 ppb, or a lower level when lead is detected at concentrations of 1 to 5 ppb in the water.

Other Actions to Lower Lead Levels in Drinking Water in Child Care Settings

In addition to the above AB 2370 implementation actions, we request that the Water Board and DSS take further regulatory steps outside of the AB 2370 process to ensure that lead levels in child care centers' drinking water are as low as possible. Specifically:

- The Water Board should direct water agencies responsible to complete full lead service line removal for those lines serving child care centers' property. Recent research has shown that partial lead service line replacement, as is currently required of the water agencies, can greatly increase lead levels in the remaining lead service lines' water. It is essential to avoid the tragic possibility that the partial replacement of a lead service line might spike a center's water with lead, and so we urge the Water Board to instead actualize full replacement of these lines as soon as possible.
- As part of its enforcement of regulations governing child care centers, DSS should require ALL licensed centers to replace their potable faucets and fixtures with faucets and fixtures that meet the NSF/ANSI 61 and 372 standards. The replacement faucets and fixtures should also have a lead test statistic Q of less than 1 microgram, or not have any lead added to the wetted surface. These more stringent standards ensure that the faucets and fixtures do not leach high levels of lead.ⁱ Of course, if centers' faucets already meet these requirements, no replacement should be required.

By ensuring that lead service lines do not deliver contaminated water to centers, and by requiring faucets and fixtures that leach minimal amounts of lead, both the board and the department could move closer towards ensuring centers' drinking water contains no more than 1 ppb lead.

Lead's Health Effects

According to the American Academy of Pediatrics and the U.S. Centers for Disease Control, there is no safe level of lead in children's blood. Lead damages children's brains, and even minute amounts of lead in the bodies of very young children causes harm to their central nervous system.ⁱⁱ The US Environmental Protection Agency states that low levels of lead in children have been linked to learning disabilities, impaired hearing, behavioral problems, and impaired formation and function of blood cells.

Beyond neurological impairment, lead harms other systems in children's bodies. Lead affects kidney function, and children exposed to lead are at a significantly greater risk of becoming hypertensive adults.

Lead interferes with the body's ability to use vital nutrients and has been linked to delayed growth. Lead is also a carcinogen.ⁱⁱⁱ

Damage from lead exposure is primarily a risk during the first six years of life, when children's brains are developing rapidly and the blood-brain barrier isn't yet formed. Babies fed formula mixed with tap water

are at highest risk of harm from lead in drinking water, since they have the highest rate of water consumption and this can be the source of most of their lead exposure.

When very young children drink water contaminated with lead, they absorb 40 to 50 percent of the ingested lead (adults absorb between 5-15 percent). And, if a child is malnourished, the child will absorb the lead more readily. Once absorbed, lead that is not excreted is distributed into the tissues of the child's body, including the bone, brain, and kidneys. Approximately 73 percent of a child's lead body burden is in his or her bones. This stored lead can cause the child's blood to retain higher lead levels long after the lead exposure has ended.^{iv}

Lead's health effects have been heavily documented, and ongoing research continues to accentuate the long-term dangers of even low levels of lead exposure. A recent study published in the journal *Pediatrics* estimates that one in five cases of childhood ADHD is attributable to lead exposure, and another study demonstrates that lead's damage to children carries well into adulthood. This study, which spanned a thirty-year period, found that persons who had moderately elevated blood lead levels as children have lower intelligence and lower socio-economic status in adulthood.^v Although medical interventions, such as chelation therapy, are used to reduce a severely lead poisoned child's blood lead levels, experts contend that the damage caused by lead is irreversible.

Because lead is not safe at any level in the blood of children or adults, the U.S. Environmental Protection Agency's Maximum Contaminant Level Goal for lead is zero. In 2009, California's Office of Environmental Health Hazard Assessment determined that the public health goal for lead in water is 0.2 ppb. And in 2015, the American Academy of Pediatrics, concerned that data demonstrated that even small amounts of lead exposure is harmful to children, recommended that the amount of lead in school drinking water should not exceed 1 ppb.^{vi}

Conclusion

Once again, in light of the strong scientific accord that no level of lead exposure is safe for children, we would ask that the Water Board and DSS embark upon implementation of AB 2370's testing and remediation requirements with the goal of ensuring that the centers' water contains less than 1 ppb lead. We would additionally ask the Water Board and DSS, in the spirit of achieving such a milestone, require a second draw sample, publicly review and update the protocols and guidelines, identify best practices that centers can implement to lower lead levels further, and take additional regulatory action to ensure that lead service lines, and faucets and fixtures containing significant amounts of lead are replaced at the centers.

Thank you for inviting the public interest community stakeholders to submit comments during this process. AB 2370 requires California to undertake a new effort towards protecting children's health from lead exposures, so we appreciate the opportunity to work on this endeavor together.

Sincerely,

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ⁱ <http://blogs.edf.org/health/2018/11/06/nsf-61-lead-from-a-new-lead-free-brass-faucet/>

ⁱⁱ <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/lead-exposure/Pages/Lead-Exposure-in-Children.aspx>

ⁱⁱⁱ <https://oehha.ca.gov/proposition-65/chemicals/lead-and-lead-compounds>

^{iv} https://oehha.ca.gov/media/downloads/water/chemicals/phg/leadfinalphg042409_0.pdf

^v <https://www.npr.org/sections/health-shots/2017/03/28/521644395/study-suggests-childhood-exposure-to-lead-can-blunt-iq-for-decades>

^{vi} <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/With-No-Amount-of-Lead-Exposure-Safe-for-Children,-American-Academy-of-Pediatrics-Calls-For-Stricter-Regulations.aspx>