

Division of Environmental Health
School of Public Health and Family Medicine
Isikolo Sempilo Yoluntu kunye Namayeza Osapho
Departement Openbare Gesondheid en Huisartskunde



WELCOME TO THE SAICM/UCT LEAD IN PAINT COMMUNITY OF PRACTICE

Introduce yourself (name, job title, organization and country) in the **chat section**.

Only the presenter and facilitator will speak. Any comments or questions from attendees should be typed in the **chat section**.

Please kindly keep you microphone muted and cameras off during the discussion

NOTE:

If you are having **technical issues**, please join the Lead in Paint WhatsApp group, using this link, and we will assist you: <https://chat.whatsapp.com/HOMtpqf5YG6EX53gJ6jsTR>

Discussion 4:

- Topic: Compliance and enforcement in a lead paint law
- Date: 10th November 2020
- Time: 16:00 – 17:30 (GMT + 2.00)
- Presenters: Amanda Rawls, ABA-ROLI; Negin Mostaghim, US EPA; Evelyn Rivera-Ocasio, US EPA
- Facilitator: Andrea Rother, University of Cape Town
- Chair: Maxine Brassell, MPH student, University of Cape Town

Lead in Paint Community of Practice

Global Alliance to
Eliminate Lead Paint

Discussion 4:

Compliance and enforcement in a lead paint law

PRESENTERS



Amanda Rawls, ABA-ROLI
Lawyer and development
professional



Negin Mostaghim, US EPA
Enforcement attorney



Evelyn Rivera-Ocasio, US EPA
Assistant Regional Counsel

Introduction

Presented by: Amanda Rawls, ABA-ROLI

- Developing effective compliance and enforcement systems is important to ensuring the success of laws.
- The purpose of enforcement is to provide incentive for the regulated community – those subject to requirements in the law -- to follow the law.
- In lead paint laws, the regulated community includes paint manufacturers and paint retailers.

Introduction (cont.)

Presented by: Amanda Rawls, ABA-ROLI

For effective compliance and enforcement, the lead paint law should clearly describe the following:

- What is required?
- Who do the requirements apply to?
- When is the deadline by which compliance must be reached?
- How compliance is demonstrated and/or documented?
- Which types of paints are being regulated?

Introduction (cont.)

Presented by: Amanda Rawls, ABA-ROLI

- We can think about compliance and enforcement in three stages:
 - Promoting compliance,
 - Documenting compliance, and
 - Government enforcement
- This Lead in Paint Community of Practice discussion is organized around these stages.

Introduction (cont.)

Presented by: Amanda Rawls, ABA-ROLI

Throughout today's discussion, we invite you to ask questions of the presenters and of each other about compliance and enforcement of lead paint laws.

Background for Question 1 – Promoting Compliance

Presented by: Negin Mostaghim, US EPA

First Stage: Promoting Compliance helps ensure that the regulated community understands the requirements and helps foster compliance with the lead paint law.

Government actions to promote compliance with a Lead Paint Law include:

- **Stakeholder engagement in drafting process**
- **Outreach to inform and educate** the regulated community (manufacturers and importers) ideally before lead limits become mandatory
- **Access to Information.** The government can designate an appropriate office to answer compliance questions.
- **Government Collaboration with NGOs and industry associations** to promote sharing of information with the regulated community (i.e., training/workshops).

Background for Question 1 (cont'd)

Presented by: Negin Mostaghim, US EPA

Government can promote compliance by providing the regulated community with useful and timely information to assist with key compliance requirements of the law.

Key compliance requirements and associated information:

- **Access.** How and where to access non-lead ingredients
- **Sampling.** How to sample the paint for testing (i.e., technical standards).
- **Testing and Labs.** How and where to find lead paint testing labs (i.e., names and contact information).

Background for Question 1 (cont'd)

Presented by: Negin Mostaghim, US EPA

Key requirements and associated information: (cont'd)

- **Demonstrate Compliance.** How to demonstrate compliance (i.e., declarations of conformity, registration or licensing approaches).
- **Re-Testing.** What factors require re-testing the paint (i.e., the Model Law requires re-testing for changes in the formulation, process, ownership, suppliers or ingredients).
- **Forms.** Where to obtain and fill out required forms
- **Documentation** and **recordkeeping** instructions

Background for Question 1 (cont'd)

Presented by: Negin Mostaghim, US EPA

Specific examples of government actions promoting compliance

- **Government Procurement.** The government acting as consumer can lead the way by changing the paint products it purchases to 90 ppm total lead paint or the lowest feasible limit. By setting the example, the government is promoting compliance.
- **Regulated Community Considerations.** Governments should consider the different needs within the regulated community before lead paint limits become mandatory. For example, small local companies may require greater assistance and face different issues than large multinational companies.
- **Press Releases, Lead Paint Compliance News.** There are tools the government can use to inform the regulated community of compliance and enforcement activity. Providing news and information about compliance or enforcement issues including penalties, further promotes compliance.

Question 1

In your country, what information do paint producers and importers need to be able to comply with a new lead paint law? What challenges have arisen or might arise in providing this information?

This question will be discussed for 25 minutes.

Please use chat only, mute your microphone, and turn your video off.

Thank you!

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Background for Question 2 – Documenting Compliance

Presented by: Evelyn Rivera-Ocasio , US EPA

Second Stage: Documenting compliance is crucial for an effective enforcement and compliance program.

- To be effective, a lead paint law should establish mechanisms for the regulated community (paint producer and importers) to **document compliance**

Background for Question 2 (cont'd)

Presented by: Evelyn Rivera-Ocasio , US EPA

The Model Law and Guidance for Regulating Lead Paint contains sample legal text for two steps to document compliance:

Step 1: Testing

Paint and similar coating materials to be tested by a third-party laboratory

- *Model Law provides sample list of methods*
- *WHO Guide on Testing provides background on test methods ([link](#))*

Step 2: Declaration of conformity

Signed declaration from manufacturer or importer

- *Affirms that a particular paint complies with the regulatory lead limit*
- *Based on third-party laboratory testing*

Background for Question 2 (cont'd)

Presented by: Evelyn Rivera-Ocasio , US EPA

Examples of mechanisms to document compliance from existing laws:

- **Mandatory licensing or registration (of paint products or retailers).** Some governments provide a license or registration for specific paint products that meet a limit or for retailers that are providing compliant paints.
- **Labelling requirements on lead content.** Some governments require labelling of paint to show it meets the regulatory limit.

Question 2

In your country, what are some efficient and effective ways (e.g., registration, declaration of conformity, laboratory testing by third-party, self-reporting, etc.) for paint producers and importers to demonstrate compliance?

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Background for Question 3

Presented by: Amanda Rawls, ABA-ROLI

Third stage: Government enforcement enables the government to verify compliance and take action on violations

Government:

- 1. Verifies compliance** - whether companies have fulfilled the requirements of the law
- 2. Penalizes violations** - prohibited acts identified through compliance verification process

Effective enforcement is essential because it:

- Provides incentives for compliance
- Eliminates unfair advantage for those who do not comply

For more details on compliance verification and enforcement, see Model Law and Guidance sections E through I

Background for Question 3 (cont'd)

Presented by: Amanda Rawls, ABA-ROLI

Compliance Verification Mechanism Examples

- **Inspect compliance documentation** for missing or falsified data
- **Inspect facilities** – e.g., production facilities, warehouses, ports, retailers – to ensure compliance procedures are being followed
 - E.g. documentation accompanies paint through the supply chain, copies retained, **coordination with customs officials**
- **Spot test paint** and compare results to provided compliance documentation.

Background for Question 3 (cont'd)

Presented by: Amanda Rawls, ABA-ROLI

Penalty Examples

When violations – prohibited acts – are found, there are a range of actions government can take in response, depending on the severity of the violation:

- Administrative sanctions
 - E.g. Cancel license to sell paint, cancel business license; monetary penalties
- Seizure or recall of product
- Fines paid by the company or the responsible individual
- Incarceration – typically in extreme cases only

Question 3

In your country, what are the best ways for government to verify if paint producers and importers are in compliance? (e.g., document review, site inspection, spot testing)

What government actions could be used in response to violations?

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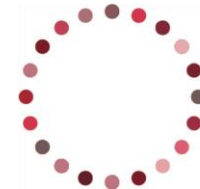
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THANK YOU
for attending the
Lead in Paint
CoP
Discussion

Please fill out the following survey to give feedback on today's discussion:

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**Our next
LiP CoP Discussion
will be in 2021!**



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This activity is supported by the Global Environment Facility (GEF) project ID: 9771 on *Global Best Practices on Emerging Chemical Policy Issues of Concern under the Strategic Approach to International Chemicals Management (SAICM)*.