

A Model Law and Guidance for Regulating Lead Paint

Regional meeting for the development of a regional standard on
lead in paint in the ECOWAS region
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**Global Alliance to
Eliminate Lead Paint**



Why Establish Lead Paint Laws?

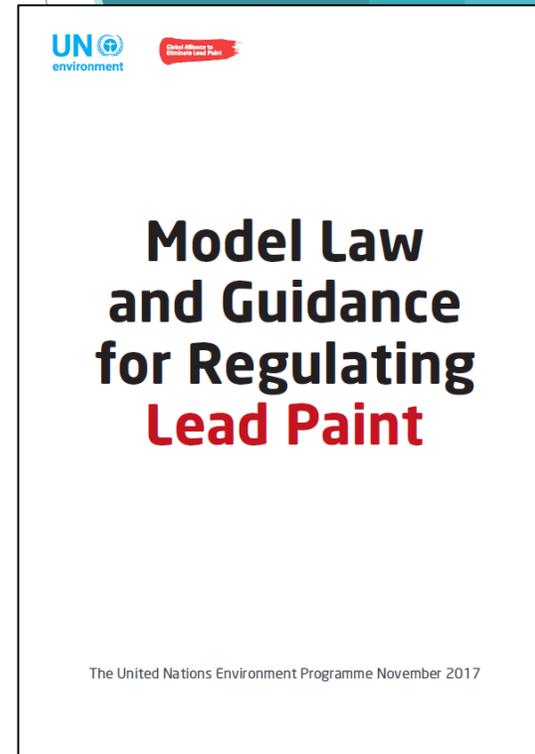
- ▶ **Incentives for change:**
 - ▶ For manufacturers to reformulate paints
 - ▶ For ingredient suppliers to produce more and better non-lead ingredients
 - ▶ For importers to sell paints that comply with law
- ▶ **Benefits for industry:**
 - ▶ National laws create a fair market for all paint manufacturers, importers and exporters.
 - ▶ Harmonized laws can reduce trade barriers
- ▶ **Legally-binding controls with effective enforcement change behavior more successfully than:**
 - ▶ voluntary limits
 - ▶ labeling requirements
 - ▶ knowledge of health risks

Definition of “Law”

Lead paint law is meant in the broadest sense to include any mandatory legal requirement with consequences for non-compliance. It can be a statute, a regulation or a standard, as long as it includes an enforcement mechanism.

What is the Model Law and Guidance?

- ▶ Governments requested sample legal language to phase out lead in paint
- ▶ Developed by UNEP with US EPA and WHO, reflecting global best practices in regulating lead in paint
- ▶ Serves as a template for **strong, straightforward, efficient** lead paint limitations
- ▶ Intended to be adapted to each country's existing legal framework, taking the form of:
 - ▶ Statute
 - ▶ Regulation
 - ▶ Technical standard
- ▶ Available online in 6 UN languages



Legal Approach of the Model Law

- ▶ Establish a **low maximum limit on total lead content in all paints**
 - ▶ Relatively easy to understand, to measure compliance and to enforce
 - ▶ Prevents future intentional use of all lead compounds in paints
 - ▶ 35 countries use this approach of setting a low lead concentration limit in paint, and more are now in process

Key Principles of the Model Law

- ▶ **Prevention:** A strong law to limit lead content in new paints will prevent new exposures to lead.
- ▶ **Achievable low maximum limit:** Recommended limit of 90 ppm total lead is achievable when manufacturers stop the intentional use of lead additives such as lead pigments. This is a commonly used limit globally.
- ▶ **Industry Pays for Testing:** Manufacturers and importers are responsible for testing their paints and certifying compliance with lead limit.
- ▶ **Compliance responsibility throughout value chain:** All businesses along the value chain are responsible for ensuring compliance, including manufacturers, importers, distributors, and retailers.

Structure of the Model Law and Guidance

▶ **Guidance:**

- ▶ Health and economic costs of lead exposure, and benefits of laws to limit lead in paint.
- ▶ Key elements needed for effective lead paint laws, and specific recommendations

▶ **Appendix I:** Model Lead Paint Law

- ▶ Sample legal text
- ▶ Rationale for recommended provisions

▶ **Appendix II:** List of international standards for

- ▶ paint sample preparation
- ▶ lead test methods for paints

Key Provisions and Recommendations of the Model Law

- ▶ **Scope of coverage:** What paints / coatings are included?
- ▶ **Clear legal limit on total lead content:** e.g. 90 ppm
- ▶ **Effective dates of new requirements:** What is the deadline to comply?
- ▶ **Compliance and enforcement mechanisms:** How will manufacturers and importers document compliance?
- ▶ **Enforcement responsibility and authority:** Who will enforce the law, and how?
- ▶ **Consequences for non-compliance:** How will violations be addressed?

Considerations for **Regional** Adoption of Elements of the Model Law

- ▶ Regional standards may focus on harmonizing:
 - ▶ Scope
 - ▶ Lead Limit
 - ▶ Compliance Mechanism
- ▶ National Authorities may assign individual:
 - ▶ Effective Dates
 - ▶ Enforcement responsibilities
 - ▶ Consequences for non-compliance
- ▶ Application of regional standard may take different national forms
 - ▶ Components of the Model Law can be separated and added to existing laws

Thank you for your attention

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Scope of Coverage

- ▶ The Model Law recommends including **all paints**, which simplifies enforcement and is most protective
- ▶ In the event of any **exceptions** allowing lead for special uses, precautionary labeling should always be used:

“DANGER: CONTAINS LEAD. DO NOT APPLY TO SURFACES ACCESSIBLE TO CHILDREN OR PREGNANT WOMEN.”
- ▶ The Model Law does NOT recommend labeling provisions for paints as “**lead free**,” since it is not technically possible to eliminate lead contamination from all ingredients.
 - ▶ Instead, setting the very low limit of 90 ppm is recommended.



Rationale for 90 ppm maximum limit on total lead

- ▶ Lowest level that is **technically feasible** for manufacturers to achieve for all types of paint
- ▶ Provides **best available health protection**
- ▶ Lowest maximum level **currently required** by any country
- ▶ Becoming an accepted **globally used limit** for new and revised laws around the world

Effective Dates

- ▶ Effective dates provide industry with a clear deadline for compliance.
- ▶ Effective dates for compliance should allow reasonable time for:
 - ▶ Manufacturers to alter paint formulations and production processes.
 - ▶ Manufacturers, importers, distributors and retailers to sell or safely dispose of existing stocks of paint with lead above new max. limit.
- ▶ Possible options for choosing effective dates:
 - ▶ Uniform dates for all paints (typically 1 year), or
 - ▶ Phased dates for different uses of paints (for example, 1 year for household paints, 2 or 3 years for industrial paints).
 - ▶ Countries also need to determine whether to allow continued retail sale of existing stocks created before the effective date.



Compliance & Enforcement Mechanisms

- ▶ The Model Law uses a “**Declaration of Conformity**” process that places the obligation for compliance on manufacturers and importers.
- ▶ Manufacturers and importers must:
 - ▶ Ensure that all paints are tested for lead by an accredited third-party laboratory. The laboratory does not have to be in-country.
 - ▶ Sign a Declaration of Conformity, including a sworn affidavit, that all their paints comply with the maximum lead limit.
 - ▶ Provide the Declaration of Conformity for all paints to distributors and retailers, and to the government upon request.
- ▶ Failure to provide a Declaration of Conformity must subject them to penalties.



Enforcement Responsibility and Authority

- ▶ The Model Law defines the Government role in enforcing compliance
- ▶ **Identify** the government ministry, agency or organization that is responsible for implementing the law, including enforcement activities.
- ▶ **Authorize** the identified government body to:
 - ▶ **Inspect** facilities or stores
 - ▶ **Review** company testing data, Declarations of Conformity, and related records
 - ▶ **Test** paint itself to verify reported results



Consequences for Non-compliance

- ▶ **Prohibited Acts:** The Model Law makes it illegal for *any person* to:
 - ▶ Manufacture, sell, distribute, or import paint containing lead over the legal limit.
 - ▶ Fail to cooperate with government inspection and testing.
 - ▶ Fail to provide a Declaration of Conformity or make a false declaration.
 - ▶ Attempt to influence a third-party laboratory's testing of paint or reporting of test result.
- ▶ **Civil and Criminal Penalties:** The model law provides for:
 - ▶ Injunctive relief
 - ▶ Civil and Criminal penalties – cross-referenced to existing law, or specific to violations of this law
 - ▶ Citizen suits