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Lead Paint Law Compliance and Enforcement Guidance

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50 **Acknowledgements**

51

52 [to be added]

53 **I. Executive Summary**

54

55 This Guidance outlines actions governments can take to foster compliance with lead paint
56 laws. It also includes actions companies can take to document compliance. This Guidance is
57 intended to be adaptable by governments to their own legal systems and regulatory structures.
58 Of course, governments may vary in the steps they take to foster compliance with their lead
59 paint laws.

60

61 Paint containing lead poses very significant risks to both human health and the environment.
62 Globally, lead paint is an important source of exposure of children to lead. Lead paint laws
63 are a key tool in protecting health and the environment from lead. Compliance and
64 enforcement are critical to effective implementation of laws limiting lead in paint.

65

66 Actions to foster compliance with lead paint laws can include:

67

68 **Drafting of clear, enforceable lead paint laws**

69

70 Ensuring compliance with a lead paint law starts with drafting the law using clear,
71 enforceable language that makes clear *who* is regulated, *what type* (or types) of paint are
72 regulated, *what* the lead limit is, *when* the requirements become mandatory, and *how* to
73 document compliance.

74

75 The Model Law and Guidance on Regulating Lead Paint includes sample legal text for
76 provisions to provide a solid legal foundation for effective implementation and enforcement
77 of lead paint laws. For example, the Model Law includes sample legal text for provisions on
78 testing paint for compliance with a legal limit on lead in paint, documenting compliance,
79 government verification of compliance, and enforcement action to sanction violations (United
80 Nations Environment Program [UNEP] 2018, Appendix I).

81

82 ***Many countries have considered the Model Law in developing their lead paint laws.***

83 Providing opportunities for input from paint manufacturers and consumers and other
84 stakeholders can play an important role in developing effective legislation.

85

86 **Compliance Promotion**

87

88 Governments can share information to foster compliance with a lead paint law, which is also
89 known as “compliance promotion.” Compliance promotion actions can include
90 communicating the requirements of a lead paint law and providing information on
91 reformulating paint and paint testing to the regulated community. Such activities can begin
92 ahead of the date on which the requirements become mandatory to give the regulated
93 community time to adjust to new requirements.

94

95 **Compliance Monitoring**

96

97 Compliance monitoring includes verification of compliance and detection of violations and is
98 essential to effective implementation of lead paint laws. Laws may require companies to
99 self-monitor their compliance with the lead limit for the paints they produce or import. This

100 approach relies on paint manufacturers and importers to have samples of each paint subject to
101 the law tested at a third-party accredited laboratory.

102

103 Enforcement approaches that rely on self-monitoring often include documentation
104 requirements. **A lead paint law may require that paint manufacturers and importers**
105 **document that their paints meet or are below the legal limit on lead in paint *before the***
106 ***import or sale* of their paints** (once the requirements become mandatory). Requiring
107 manufacturers and importers to certify testing of their paints places the responsibility for
108 demonstrating compliance on the companies that bring paints to market.

109

110 This certification, signed by a responsible company official, is presented to the government
111 upon request or made widely available, such as by posting on the internet. Making such a
112 certification widely available enables retailers to ensure paints they sell comply with the law.
113 A sample form for such a certification is provided in Appendix A.

114

115 Governments can inspect facilities for the manufacture, import, and distribution of paints.
116 Such inspections play a crucial role in fostering compliance. The purpose of an inspection is
117 to verify and motivate compliance by detecting violations and gathering evidence to support
118 potential compliance actions. A sample Inspection Checklist outlining inspection procedures
119 is provided in Appendix B and a sample Inspection Report is provided in Appendix C.

120

121 **Enforcement**

122

123 Finally, enforcement actions foster compliance and a level playing field by providing a
124 credible threat of sanctions for violations. High likelihood of government detection of
125 violations and imposition of sanctions can provide a strong incentive for compliance. This
126 concept of deterrence is central to effective implementation of lead paint laws.

127

128 Enforcement actions should be proportionate to the seriousness of the violation and the risks
129 posed to human health and the environment. Factors that can influence the appropriate
130 enforcement response and resulting sanctions include the extent of deviation from the
131 requirements, the degree of harm or risk, and other factors. Penalty determinations are
132 guided by the goal of ensuring that violators do not financially benefit from noncompliance.
133 Other remedies for violations of a lead paint law may include seizure or recall of paints
134 exceeding the limit on lead content in paint.

135

136 The Guidance was developed by UNEP in collaboration with a working group comprised of
137 government, industry, and civil society partners of the Global Alliance to Eliminate Lead
138 Paint (Lead Paint Alliance) and was also provided online for public comment.

139

140 **II. Introduction**

141
142 This document outlines actions by governments to advance lead paint law¹ compliance and
143 enforcement. Effective compliance and enforcement strategies strengthen the credibility of
144 environmental requirements and help promote fairness by removing the potential financial
145 advantage to companies that do not comply. Compliance and enforcement are critical to the
146 effectiveness of lead paint laws and should be considered from the drafting through the
147 implementation of the law. Effective compliance and enforcement lead to greater protection
148 from the harmful health and environmental effects of lead. For the definition of compliance
149 and enforcement see text boxes 1 and 2 below.

150

Text box 1: Compliance is conformity with legal requirements. To achieve compliance, common practices of governments include compliance promotion (outreach to the regulated community to educate them on the law), compliance monitoring (review of compliance documentation, government inspections, and testing of paint), and enforcement (efforts to compel compliance through civil or criminal proceedings, and penalties). (International Network for Environmental Compliance and Enforcement [INECE] 2009; UNEP 2006)

151

Text box 2: Enforcement is a component of compliance and refers to actions taken by the government against violators to deter violations and compel compliance with the law. Enforcement provisions can provide for penalties to deter violations and can also provide for injunctive relief to require the violator to come into compliance with the law. (INECE 2009)

This Guidance uses the term ‘agency’ to refer to the government entity responsible for implementing the lead paint law.

152

153 Paint containing lead poses risks to health and the environment and lead paint is an important
154 source of childhood lead exposure. As lead paint ages the paint starts to decay, it fragments
155 into flakes and dust that can contaminate the indoor and outdoor environment. Paint flakes
156 and contaminated dust are readily swallowed or inhaled by young children. Lead can have
157 permanent health effects on children and also cause harm in adults.

158

159 An increasing number of countries are adopting lead paint laws (UNEP 2021, UNEP 2022a,
160 WHO 2021). For a country example of the importance of lead paint laws in reducing lead
161 concentration in paint, see text box 3 below. Paint testing studies have shown that decorative
162 paints can contain high levels of lead (IPEN 2020). Eliminating lead paint avoids the
163 socioeconomic costs associated with health impacts of lead exposure and the costs of abating

¹ Lead paint law is meant in the broadest sense to include any mandatory legal requirement with consequence for non-compliance. It can be a statute, a regulation, or a standard, as long as it includes an enforcement mechanism.

164 the risk of lead paint after it has been applied to surfaces (WHO 2020a). An emerging best
165 practice for new and revised lead paint laws globally is to establish a legal limit on lead
166 content in paint, such as 90 parts per million (ppm). This limit is protective and generally
167 achievable when paint manufacturers stop the intentional use of lead additives. However,
168 due to potential lead contamination of some ingredients used in certain specialty products,
169 such as marine coatings, a 90 ppm limit may not be achievable and a different limit may need
170 to be developed taking into account input from relevant stakeholders.
171

Text Box 3: Importance of Enacting Legal Limits on Lead in Paint

Nepal enacted a mandatory 90 ppm limit on lead content in paint which took effect in 2015. Testing of paints on the market from 2009 to 2021 showed a reduction in lead in solvent-based paints tested since the limit came into effect, indicating the importance of lead paint laws to eliminate lead paint. Prior to when the limit was in effect, on average 77% of paints tested exceeded a lead content of 90 ppm; in 2021, after the standard had been in effect for a few years, 48% of paints tested exceeded the 90 ppm limit. These results suggest that testing of paints on the market can indicate the extent of noncompliance and can inform more effective implementation of lead paint laws. (Center for Public Health and Environmental Development [CEPHED] 2021; UNEP 2022b; Federal Democratic Republic of Nepal, Ministry of Science Technology and Environment 2014)

172

173 A. Method of Development

174

175 This Guidance was developed by UNEP in collaboration with a working group comprised of
176 government, industry, and civil society partners of the Global Alliance to Eliminate Lead
177 Paint (Lead Paint Alliance) (UNEP 2022c) and was also provided online for public comment.
178 The Lead Paint Alliance promotes the development of laws to limit lead content in paint in
179 order to reduce exposure to lead.² To advance this Lead Paint Alliance goal, UNEP
180 developed the *Model Law and Guidance on Regulating Lead Paint* (hereinafter referred to as
181 the Model Law or referenced as UNEP 2018).

182

183 This Guidance draws on the Model Law and discussions of the Lead Paint Alliance with
184 governments and other stakeholders on compliance and enforcement issues.³ This Guidance

² In 2009, the second International Conference on Chemicals Management, under the Strategic Approach to International Chemicals Management policy framework, nominated lead in paint as an emerging policy issue. The Lead Paint Alliance was subsequently established as a voluntary collaborative initiative working with diverse stakeholders including from industry, government, and non-profit organizations with the goal of preventing children's exposure to paint containing lead and minimizing occupational exposure to lead paint. UNEP and the World Health Organization (WHO) act as co-secretariat and the U.S. Environmental Protection Agency chairs its Advisory Council.

³ An example of such a discussion is the UNEP Lead in Paint Community of Practice Discussion on Compliance and enforcement in a lead paint law. November 2020. <https://saicmknowledge.org/event/online-discussion-compliance-and-enforcement-mechanisms-lead-paint-law>.

185 also draws on the INECE⁴ *Principles of Environmental Compliance and Enforcement*
186 *Handbook* (INECE 2009).

187

188 B. Purpose and Scope

189

190 The purpose of this document is to provide countries with guidance for the development and
191 implementation of compliance and enforcement strategies for lead paint laws. *The Guidance*
192 *describes key elements of compliance and enforcement strategies for government officials*
193 *and provides examples, including from countries that have enacted lead paint laws. The*
194 *Guidance also provides examples of actions paint manufacturers and importers can take to*
195 *demonstrate compliance.* See Section V.

196

197 For information on how different governments, the paint industry and civil society can use
198 this Guidance, see the text box 4 below.

199

Text box 4: How interested stakeholders can use this Guidance

Government officials can use this Guidance to inform the drafting of effective compliance and enforcement provisions and to promote, monitor and enforce compliance with lead paint law requirements. *See also Sections III-VII; Figs. 1 and 2.*

Paint manufacturers and importers, and others covered by a lead paint law can use this document to understand how to document compliance and to understand what may be expected during an inspection. *See also Section VI; Figs. 2 to 5.*

Civil society organizations can use this Guidance to understand best practices for engaging on drafting and implementation of provisions for lead paint law enforcement and compliance.

In all cases, specific compliance activities will be determined by the laws in specific countries.

200

201 This Guidance is intended to be adaptable by countries to their own legal systems and
202 regulatory structures. Each country may consider application of compliance and enforcement
203 practices most useful and relevant to its circumstances (see Fig. 1 for examples of compliance
204 actions).

205

206 This Compliance and Enforcement Guidance includes nine sections:

207

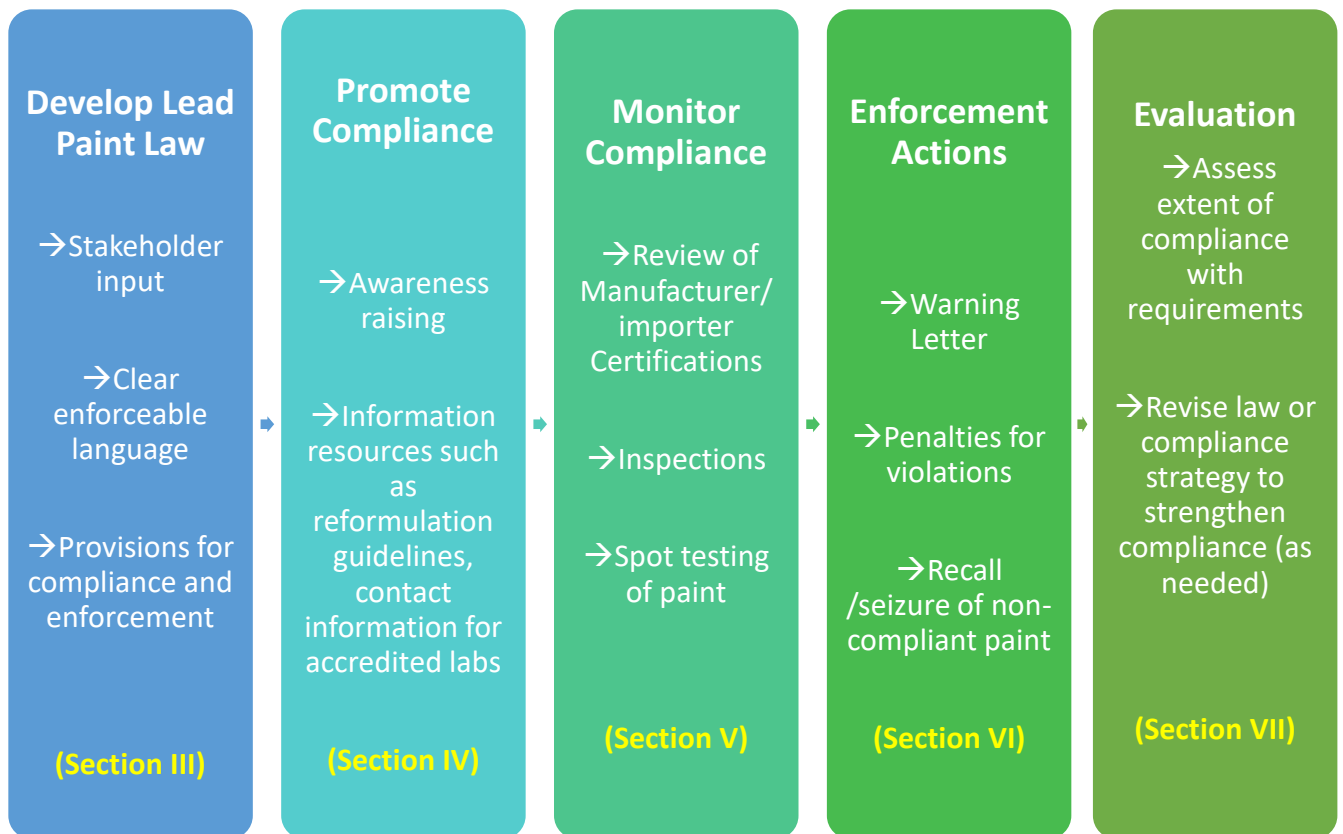
208 Section I: Executive Summary

209 Section II: Introduction

210 Section III: Drafting of Clear, Enforceable Lead Paint Laws

⁴ INECE is a partnership of government and non-government enforcement and compliance practitioners from more than 150 countries. INECE's goals are: to raise awareness of compliance and enforcement; to develop networks for enforcement cooperation; and to strengthen capacity to implement and enforce environmental requirements. For more information, see: www.inece.org.

211 Section IV: Compliance Promotion
212 Section V: Compliance Monitoring
213 Section VI: Enforcement
214 Section VII: Periodic Evaluation
215 Section VIII: Conclusion
216 Section IX: References
217 Appendix A: Sample Certification Form
218 Appendix B: Sample Inspection Checklist
219 Appendix C: Inspection Report Template
220
221



222
223 Figure 1: Types of Government Compliance and Enforcement Actions
224

225 III. Drafting of clear, enforceable lead paint laws

226
227 This section of the Guidance provides information about drafting a clear, enforceable lead
228 paint law, with well-defined authorities to regulate lead paint and taking into account
229 relationships to other laws, while providing opportunities for stakeholder input.

230 231 A. Clear Enforceable Language

232
233 Drafting a law using clear, enforceable language helps promote compliance and enforcement.

234 *To be effectively enforced, a law should be clear about who is regulated, what type of paint*
235 *is regulated, what the lead limit is, what if any, are the explicit exemptions, when the*
236 *requirements become mandatory, and how to document compliance.*
237

Text box 5: Phased compliance dates

The lead paint law of the **Philippines** provides for the phase-out of all paints and other similar surface coatings with lead content above 90 ppm. The law establishes different schedules for phase-out of different types of paints to allow manufacturers time to reformulate their paints. The law provides for a 3-year phase-out period (2013-2016) for phasing lead out of architectural, decorative and household paints and a 6-year phase-out period (2013-2019) for phasing out industrial paints (including automobiles paints, industrial and commercial building and equipment maintenance coatings, refinish coatings for industrial equipment, catalyzed coatings for use on radio-controlled model powered airplanes, and touch up coatings for appliances and lawn and garden equipment). (Republic of the Philippines, Department of Environment and Natural Resources 2013; UNEP 2022d, Module F-4).

238

239 *The Model Law, which many countries have considered in developing lead paint laws,*
240 *includes sample legal text for provisions to help ensure a strong legal foundation for*
241 *effective implementation and enforcement of lead paint laws.* For example, the Model Law
242 includes sample legal text for provisions on how companies can document compliance with a
243 legal limit on lead in paint and for government authorities to conduct inspections to ensure
244 the completeness and accuracy of the documentation.

245 The Model Law includes sample legal text to:

246

- 247 (1) define key terms;
- 248 (2) prohibit manufacture and sale of paint that exceeds 90 ppm total lead
249 concentration;⁵
- 250 (3) specify when the requirements become mandatory with the option of developing
251 different phased compliance dates for different types of paints (see text box 5 below
252 for a country example);
- 253 (4) require written declarations, based on third-party testing, documenting that each
254 paint manufactured or imported meets the 90 ppm limit; and
- 255 (5) specify or reference sanctions for violations.

256

257 B. Input from Stakeholders

258

259 Governments should provide opportunities for input from companies affected by the law,
260 such as paint manufacturers and importers, while a law is being designed and drafted (UNEP
261 2020b, UNEP 2020c). Compliance and enforcement officials, trade associations, paint

⁵ Note that some specialty coatings, such as marine coatings, may require a higher limit than 90 ppm at this time. See: UNEP 2020a, Question 14.

262 consumers, and other relevant stakeholders may also provide useful input. This information
263 can help inform consideration of the effectiveness and feasibility of provisions considered for
264 inclusion in the law. Consultation with paint manufacturers, retailers, and other stakeholders
265 can also increase their understanding of the law’s requirements and purpose, which can
266 promote compliance when the law goes into effect. Input from compliance and enforcement
267 officials can inform drafting of the compliance and enforcement provisions, which can help
268 ensure that they are enforceable and effective.

269

270 C. Well-defined Compliance and Enforcement Authorities

271

272 Governments can promote effective enforcement of lead paint laws by using language in the
273 law that provides clear legal authority for compliance and enforcement. The law should
274 clearly define the scope of agency responsibilities, lines of authority, and mechanisms for
275 coordination. For example, it can be important to foster effective coordination with officials
276 who regulate imports at points of entry. It can also be important to foster effective
277 coordination on the handling of lead paint that remains in the channels of commerce after it is
278 prohibited and of paints that may be treated as waste.

279

280 D. Relationship to other laws

281

282 In drafting lead paint laws, it can be important to take into account and consider referencing
283 other laws that contain potentially relevant provisions. For example, Vietnam’s lead paint
284 standard references content labelling provisions in a Vietnam Decree on Goods Labelling
285 (Vietnam, Ministry of Industry and Trade 2020; Envilience Asia 2020). Colombia’s lead
286 paint law references provisions in its waste law for management of lead-containing waste
287 (Colombia, Congress of the Republic of Colombia 2020).

288

289 IV. Compliance Promotion

290

291 Communication of the purpose and key requirements of a lead paint law to the regulated
292 community⁶ can help increase understanding and encourage compliance. Such activities can
293 begin ahead of the date on which the requirements become mandatory to give the regulated
294 community time to adjust to new requirements. Understanding the paint market can inform
295 education and compliance promotion activities.⁷

296

297 Governments may disseminate information about lead paint laws through publications (e.g.,
298 gazettes), websites, FAQ documents, and direct contact with the regulated community. In
299 some countries, trade associations or NGOs may provide information as well, such as through
300 trade publications, workshops and their web sites.

301

⁶ This Guidance uses the term “regulated community” to refer to any person or entity to whom lead paint law requirements apply. If a lead paint law prohibits manufacture, import, distribution, and sale of lead paint, then paint manufacturers, importers, distributors, and sellers constitute the “regulated community” in the context of that law. See: Organization for Economic Cooperation and Development [OECD] 2003.

⁷ The specific entities that are part of a regulated community will depend on the requirements of the lead paint law in a particular country.

302 Compliance promotion materials may include fact sheets or “frequently asked questions”
303 with information on:

304

- 305 • where to find alternative non-lead paint ingredients (See UNEP 2022e);
- 306 • applicable standards for sampling and testing and where to find labs
307 accredited to perform the tests required in the law (See UNEP 2021b);
- 308 • who is subject to the law and required content of documents certifying
309 compliance;
- 310 • the date on which lead paint in excess of the limit can no longer be legally
311 manufactured or imported;
- 312 • the date on which lead paint already in the channels of commerce can no
313 longer be legally sold; and
- 314 • requirements to maintain compliance records.

315

316 For additional examples of compliance promotion materials, see text box 6 below.

317

Text box 6: Compliance Promotion Materials

Governments may provide information to promote compliance by companies. Inspectors may wish to provide this material to facilities during inspections (see also Sample Inspection Checklist in Appendix B).

Country-specific information

- Lead paint law requirements
- Forms for documenting compliance (See Appendix A)

General Information

- Lead paint laboratories (See UNEP 2021b).
- Reformulation best practices (See UNEP 2022e).
- Suppliers of non-lead paint ingredients (See UNEP 2022e).
- Analytical methods (See WHO 2020b).

318

319 Dissemination of certain compliance promotion material, such as guidelines for reformulating
320 lead paint, may begin during the development of a lead paint law. In addition, in countries
321 where most paint manufacturers are Small and Medium Enterprises (SMEs), the government
322 may choose to focus more heavily on compliance promotion rather than enforcement in the
323 early stages of implementing a law.

324

325 Investing in robust compliance promotion measures fosters understanding and knowledge of
326 the requirements of the law. This can potentially reduce enforcement violations and allow a
327 more focused use of enforcement resources to focus on priority violations.

328

V. Compliance Monitoring

330

331 Government detection and action to address violations is essential to effective
332 implementation of lead paint laws.

333

334 The Model Law includes sample legal text to require companies to self-monitor their
335 compliance with the lead limit for each paint they produce or import, and to maintain records
336 to document compliance. This approach relies on manufacturers and importers to have
337 samples of each paint subject to the law tested at a third-party accredited laboratory. Based on
338 this testing, companies are required to certify the compliance of each paint with the limit.⁸
339 ***Requiring manufacturers and importers to certify testing of their paints places the***
340 ***responsibility for demonstrating compliance on the companies that bring paints to market.***
341 Governments may conduct inspections to verify the completeness and accuracy of
342 documentation provided by companies.
343

344 A. How Manufacturers and Importers can Document Compliance

345 1. *Paint testing requirements*

346 ***A lead paint law may require that paint manufacturers and importers demonstrate their***
347 ***paints meet or are below the legal limit on lead in paint before the import or sale of their***
348 ***paints.*** A lead paint law also may have requirements that manufacturers and importers submit
349 samples of paint or similar coating materials to a third-party laboratory accredited under
350 international standards for testing for compliance with the legal limit on lead in paint. (See,
351 for example, UNEP 2018, Appendix I, section D)
352
353

354 The UNEP *Lead in paint laboratory database* lists laboratories in each UN region capable of
355 quantifying lead in paint (UNEP 2021b). See Figure 2 below for an illustration of steps to
356 sample paint and test for lead.⁹
357

⁸ See Appendix A for a Sample Certification Form.

⁹ For additional information on standards and methods, see: IPEN (2021), pp. 18-20; UNEP (2018); and WHO (2020b).

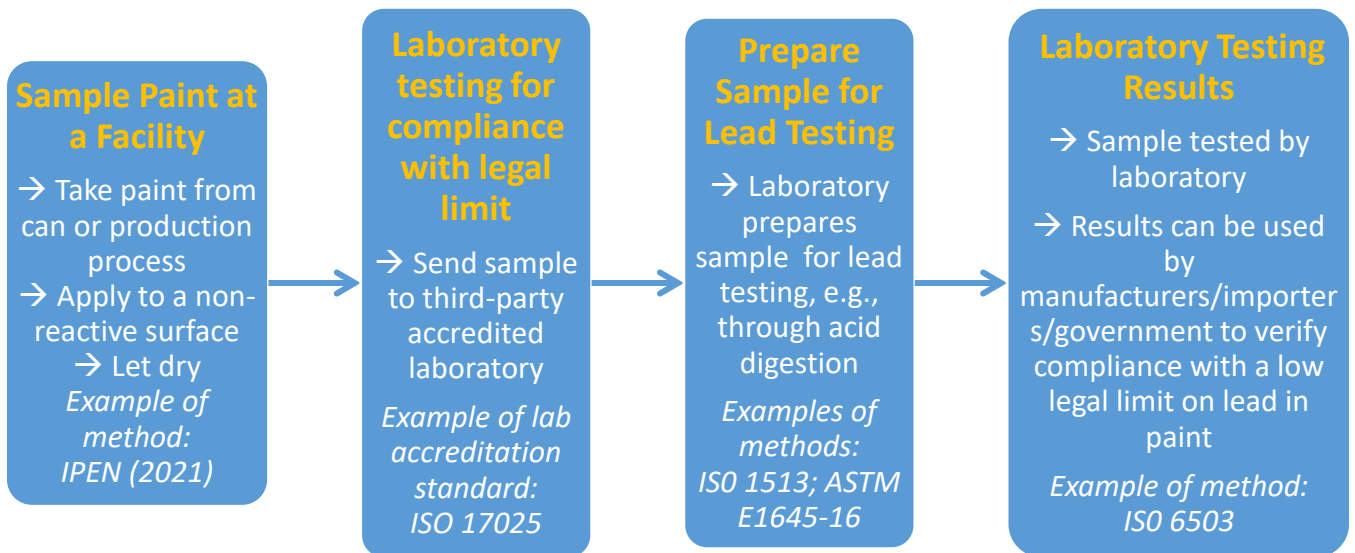


Figure 2: Steps to sample paints and test for lead

359

360 A lead paint law may require new third-party lab testing to be conducted and a new
 361 declaration issued before a paint, whose production process has undergone a material
 362 change,¹⁰ can be marketed. For example, a change in ingredients or a change in an
 363 ingredient supplier which could affect the ability to meet the lead standard would constitute a
 364 material change. If a material change in the production process for a paint occurs, the earlier
 365 declaration of conformity is no longer applicable.

366

367 To ensure that testing is not unduly burdensome, a lead paint law may allow importers to rely
 368 on a foreign manufacturer’s test results as a basis for their declaration of conformity. In this
 369 situation the importer must exercise due care to ensure that the manufacturer’s test results
 370 meet the requirements of the law and maintain appropriate records of the test methodology
 371 and results (UNEP 2018, Appendix I, section D).

372

373

¹⁰ A “material change” is a change that the manufacturer or importer makes to the design, manufacturing process or the source of component parts for the paint or similar coating material which a manufacturer or importer exercising due care, knows or should know, could affect compliance with a legal limit on lead content in paint. (UNEP 2018, Appendix I, section D)

2. *Methods for Preparing Paint Samples and Testing for Lead*

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Specifying the methods for laboratory sample preparation and laboratory analytical testing can help ensure that companies provide reliable test results and promote compliance. The Model Law provides sample legal text for the law or subsequent guidance requiring manufacturers and importers to base declarations of conformity on tests using recognized sample preparation and testing methods. Internationally recognized methods are referenced in the Model Law (UNEP 2018, Appendix I, section D and Appendix II) and the *WHO Brief guide to analytical methods for measuring lead in paint* (WHO 2020b).

Laboratory methods generally can detect low amounts of lead and thus can verify compliance with a low lead limit such as 90 ppm. Importers and manufacturers should check with the laboratory in advance to ensure that this is the case.

To test lead content from a paint can or paint from a manufacturing process, the paint must be thoroughly mixed through stirring, applied with a paint brush to a non-reactive surface, and dried.¹¹ The paint sample can then be sent to a laboratory for analysis, where it is further prepared for testing.

3. *Documentation of Compliance by Manufacturers and Importers*

As explained above, a lead paint law can require paint manufacturers and importers to document that their paints meet the lead limit based on testing. Lead paint laws in different countries may refer to this document by different names, such as a registration,¹² certification, attestation, or a declaration of conformity. See text box 7 below for a country example of attestation of compliance.

This Guidance uses the term “certification” when discussing this compliance documentation.

Text box 7: Attestation of compliance

The lead paint law in **Uruguay** requires paint manufacturers and importers to submit a registration form attesting to laboratory analysis showing compliance with the legal limit on lead content in paint to a National Register for all lead processing industries and commercial lead-containing products. The form must be printed, signed and sent via email to the Environmental Directorate by the owner, legal representative or attorney-in-fact of the company. (UNEP 2022d, Module F-6; Uruguay 2011)

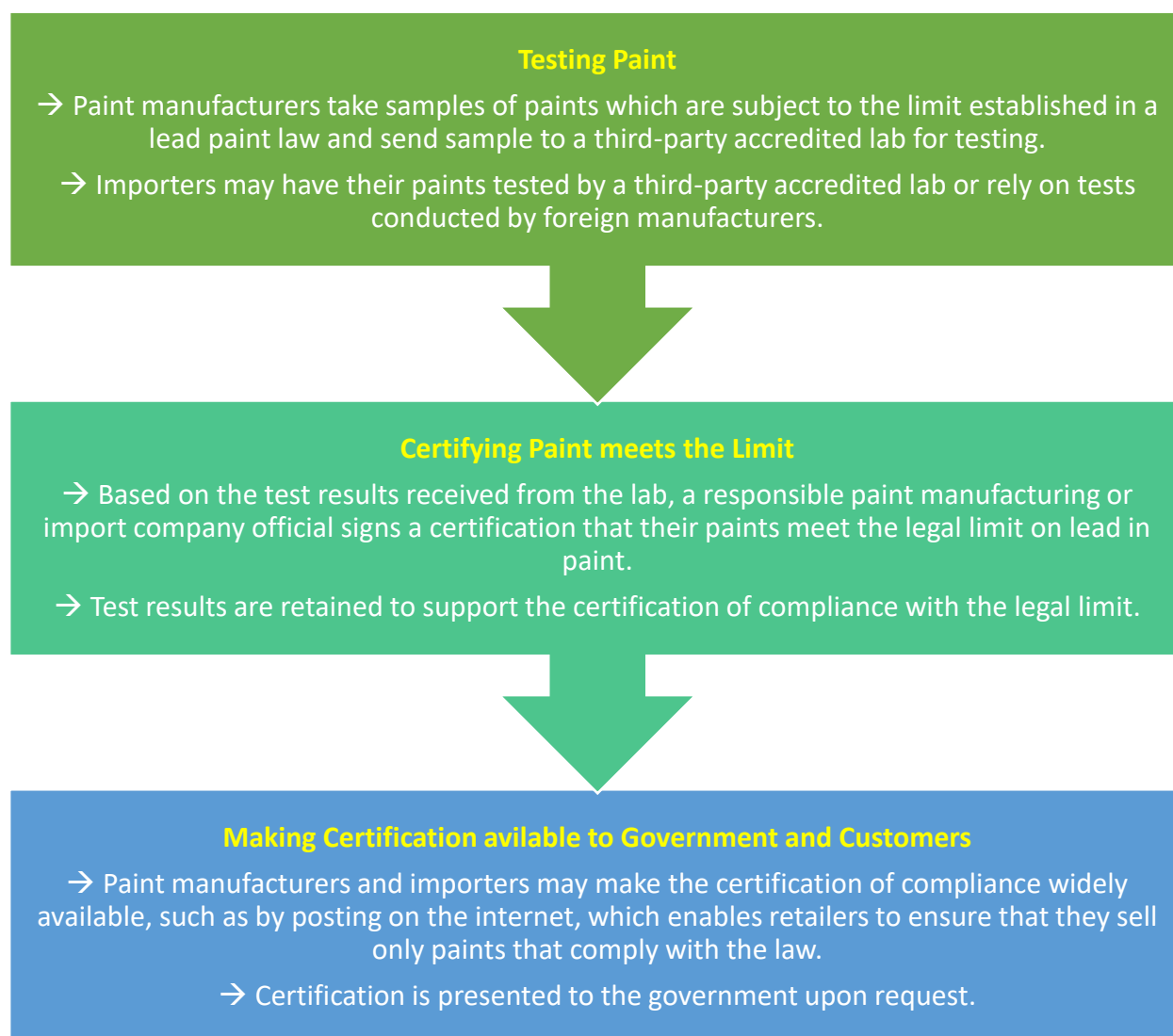
402
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As suggested in the Model law, this certification must be signed by a responsible company official and presented to the government upon request or made widely available, such as by posting on the internet. Making such a certification widely available enables retailers to

¹¹ For a more detailed description of this sampling method, please see IPEN 2021, pp. 18-20.

¹² Some Lead Paint Laws that adopt a “registration” approach may require an additional step of government review of the relevant documentation and registration of the paint prior to sale. Under this approach the government must quickly review documentation and register eligible paints if it wishes to avoid market disruption once the lead paint limit becomes mandatory.

406 ensure paints they sell comply with the law. A sample form for such a certification is
407 provided in this Guidance in Appendix A. See also Fig. 3 for possible actions by the
408 manufacturer to document compliance based on the requirements of the sample legal text
409 provided in the Model Law.¹³ Actions to document compliance may vary with different
410 countries' provisions.¹⁴
411



412
413 Figure 3: How Manufacturers or Importers can Document Compliance before Sale or Import
414 of Paint

415
416

¹³ Note: This is a scenario based on the sample legal text provided in the UNEP Model Law. Provisions in different countries' laws may vary.

¹⁴ For example, the European Union has adopted an approach under the Registration, Evaluation, Authorisation and Restriction of Chemical (REACH) regulation on lead compounds in paints that prohibits the addition of certain specific lead compounds to paints intended for the general public. EU Member States are each responsible for compliance and enforcement within their jurisdiction, which may vary from one Member State to another.

417 B. Inspections to Verify Compliance

418

419 Inspections demonstrate the government's commitment to compliance to achieve effective
420 implementation of the lead paint law. The purpose of an inspection is to verify and motivate
421 compliance by detecting violations and gathering evidence to inform potential compliance
422 actions. A sample Inspection Checklist outlining inspection procedures is provided in
423 Appendix B.

424

425 1. *Legal Authority for Inspections*

426

427 A lead paint law should contain or reference provisions providing clear legal authority to the
428 responsible agency to inspect a factory, warehouse, or establishment in which paint or similar
429 coating materials are manufactured or held. For example, the Israeli lead paint standard
430 references a national standards law providing the Standards Commission with the authority to
431 conduct audits and to enter any facility to take samples (Israel, The Standards Institute of
432 Israel 2019). Such a provision authorizes an inspector, upon presenting the appropriate
433 credentials, to enter at reasonable times to make observations, check certification records,
434 take samples for subsequent testing, and interview company personnel for the purpose of
435 determining compliance. Providing clear authority for such activities in the law can create
436 greater certainty and reduce litigation risk.

437

438 2. *Types of Inspections*

439

440 To promote compliance, inspectors can check a paint
441 to verify that it is covered by a certification of
442 compliance. Such inspections can be conducted
443 virtually or in person at a paint manufacturing or
444 importing facility. Inspectors can also check on the
445 reliability of the certification by sampling paint and
446 having it tested. Such testing can verify whether
447 paints contain lead levels that exceed the legal limit.
448 See text box 8 for considerations in government
449 reviews of company compliance certifications.

450

451

452 3. *Targeting Inspections*

453

454 Although frequent inspections can produce greater
455 compliance, resource limitations can constrain the
456 frequency of inspections. One way to promote
457 efficient use of enforcement resources is to target
458 inspections, for example by criteria such as paint
459 production volume, paint type (for example, giving
460 priority to household paint), and company compliance
461 history.

Text box 8: Government Reviews of Company Compliance Certifications

In order to verify compliance, government regulators might review compliance documentation. While some laws require documentation be submitted to the government, other laws may require it be submitted upon request.

This review might warrant follow-up action if the certification:

- was not submitted to the inspector or to the appropriate agency;
- does not clearly identify the paint product to which it applies;
- does not identify an independent third-party laboratory;
- does not state that the test results were within the legal limit on lead content in paint; or
- is not signed by a responsible company official.

462

463 Some lead paint laws require that manufacturers and importers submit certifications to the
464 agency responsible for enforcement, while others require they be provided to the agency
465 “upon request.” Virtual inspections can help maximize the impact of limited enforcement
466 resources. Requiring that certification be posted on company web sites adds transparency
467 and can reduce resource expenditures for checking certification documents.

468

469 *4. Inspection Procedures*

470

471 **The role of the inspector** is to establish the facts by requesting and reviewing documentation
472 of compliance with testing requirements and the limit on lead in paint. Enforcement officials
473 can utilize standardized inspection procedures to ensure consistency and promote fairness
474 (see Appendix B for a Sample Inspection Checklist). Governments can promote effective
475 inspections by training inspectors on the requirements of the law and the technical aspects of
476 taking paint samples.

477 **Pre-inspection procedures:** A good starting point for inspectors can be to review the
478 requirements of the lead paint law. Some countries’ lead paint laws cover all paints, while
479 others cover only a subset. Moreover, some lead paint laws have different compliance
480 deadlines for different types of paint.

481 The material and equipment needed for the inspection may include a notebook and sampling
482 equipment (including containers to transport the samples). The inspector may also bring
483 compliance resources such as a list of accredited labs, information on obtaining access to
484 alternative ingredients that do not contain lead, and forms for documenting compliance.

485 **Procedures during inspection:** The inspector should comply with applicable entry
486 requirements such as presenting inspector credentials and entering the facility (e.g., the
487 manufacturing or customs facility, or distribution center) at a reasonable time. Often
488 inspectors meet with appropriate personnel to explain the purpose of the inspection, provide
489 information, and respond to questions. Communication between the inspector and the
490 company can help promote compliance.

491 The inspector may review the certification documents and/or check the paint at the facility.
492 The inspector may request a list of all paints produced at the facility and check this list
493 against the company documents certifying compliance with the lead limit for each paint.
494 Inspections of retailers and distributors can verify whether paint products in the marketplace
495 are in compliance. The inspector can also take paint samples for laboratory testing, by
496 applying the paint to a non-reactive surface, letting it dry and submitting this sample to the
497 laboratory for analysis.

498 When sampling, following chain of custody protocols can help mitigate litigation risk. Chain
499 of custody refers to documenting a complete record of all personnel involved in preparing
500 and transmitting samples for testing at a third-party accredited lab. Procedures necessary for a
501 proper chain of custody include the name and signature or initials of the collector, the date
502 and time collected, sample identification, and the source of the sample, among other
503 requirements. For instance, the *Lead Safe Paint Certification Requirements* protocol of the
504 International Pollutants Elimination Network (IPEN) Lead Safe Paint program provides chain
505 of custody procedures for lead paint samples (see IPEN 2015, Appendix A, pg. 14).

506 To ensure reliable results, sample preparation by the laboratory should be performed in
507 accordance with internationally recognized sample preparation methods, such as those listed
508 in Appendix II of the Model Law. Some companies may request a split sample, which is
509 separated into at least two representative parts to be tested at different laboratories.

510 The inspector should only discuss factual observations with the company and should not
511 discuss legal conclusions such as whether these observations indicate a violation. The
512 inspector may inform the company of the consequences of noncompliance, which may
513 include civil or criminal enforcement actions. See also Fig. 4 for possible actions by the
514 manufacturer and importers when their facilities are inspected.¹⁵

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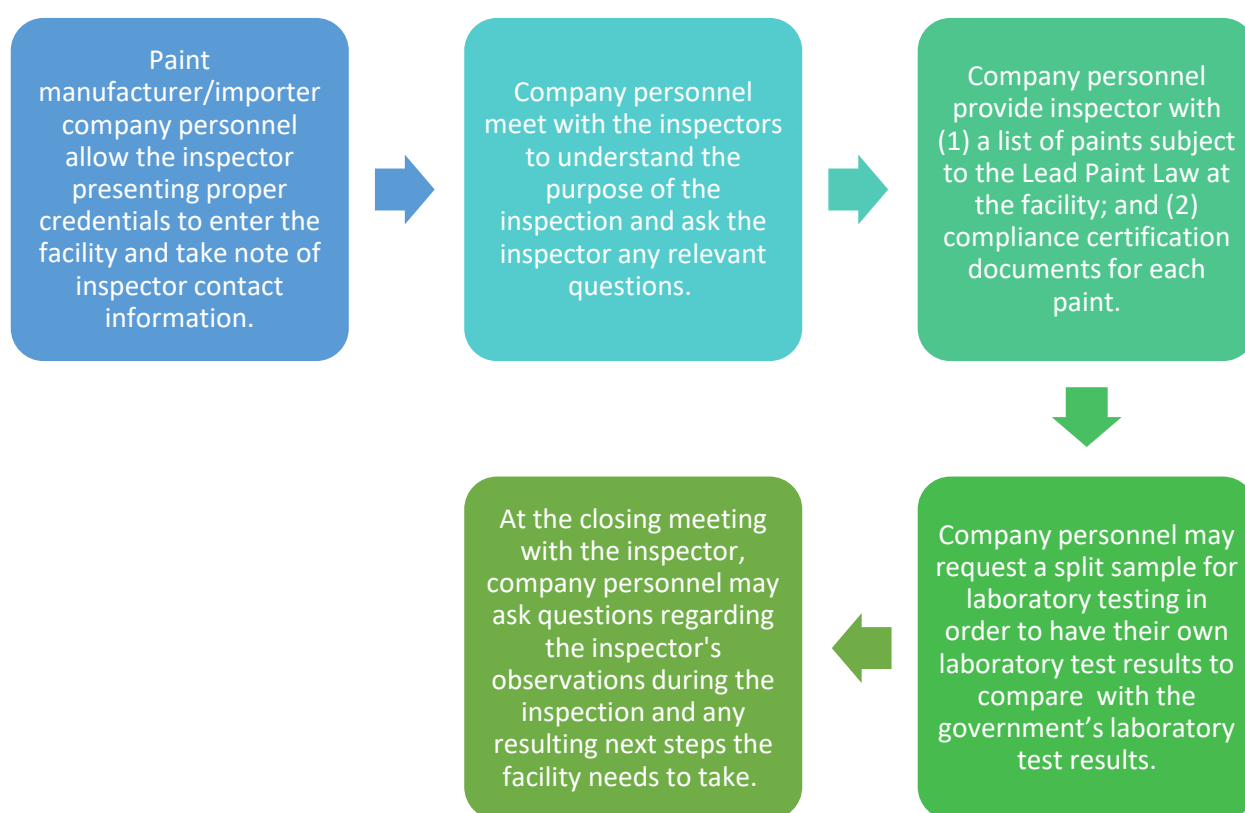


Figure 4: Actions by paint manufacturers/importers when their facilities are inspected

517
518 If lead paint is produced legally before the limit on lead content in paint becomes mandatory,
519 governments may prevent creation of an underground market by taking steps to take
520 possession of the paint themselves for disposal, require company take-back programs, or
521 permit these products to be sold for a limited period (e.g., two years) after which they will be
522 subject to applicable requirements for disposal of waste. Laws in some countries may treat
523 obsolete lead paint as a hazardous waste. Ensuring proper disposal can prevent additional
524 risks to health and the environment. Governments may also encourage companies to replace
525 lead ingredients in their paints prior to the legal limit on lead in paint becoming mandatory.

¹⁵ Note: Inspection provisions in different countries' laws may vary.

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Government inspectors may also use portable X-Ray Fluorescent (XRF) analyzers to identify paints with high levels of lead for possible follow up lab testing for determination of compliance with a low legal limit. See also text box 9 below for information on XRF analyzers and considerations for when to use XRF analysis.

Text box 9: X-Ray Fluorescence Analyzers can be used by government inspectors for screening to identify paints with high levels of lead for possible follow up lab testing for determination of compliance with a low legal limit. XRF analyzers often lack the sensitivity to measure low enough levels of lead in paint to verify compliance with a low lead limit such as 90 ppm.

Care should be taken to understand the specifications and detection range of a particular XRF instrument. In addition, sample preparation involves applying the paint to a non-reactive surface and letting it dry prior to analysis by XRF. Measurement of lead in wet paint by XRF is not widely recommended.

If XRF analysis is conducted and results are close to the legal limit, additional testing may be needed to verify compliance. If the results are high above the legal limit, verification by lab testing may also be desired for certainty. (WHO 2020b)

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Post-Inspection: After the inspection the inspector reviews the evidence and drafts an inspection report to provide to government enforcement officials. The inspector's written observations should include date(s) of inspection, any gaps in documentation, and test results and dates. The report can also include background information on the company, as well as summaries of interviews and discussions with company personnel (including their names and positions).

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The inspection report, similar to onsite inspector discussions with the company, should contain only the factual observations of the inspector, without any conclusions on compliance. The inspector should produce this report and provide a copy of the inspection report to the manufacturer or importer.

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See also Fig. 5 for possible post-inspection actions by the manufacturer.

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5. Maintaining Compliance Records

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The purpose of the inspection report is to provide government enforcement officials with the information they need to evaluate compliance and determine the appropriate enforcement response to address violations. Where there are uncertainties regarding compliance status, follow up inspections or communications may be appropriate.

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A lead paint law can require that manufacturers and importers maintain records of their compliance certification documents for five years from the date of the last production batch or the last import. Paint products may remain in the channels of commerce for years after

558 being imported or manufactured. Record retention requirements will ensure that companies
559 will be able to provide proof of compliance when requested.¹⁶ Alternatively, companies may
560 post their compliance certifications on the company web site, so that they are widely
561 available.

562

563 See also Fig. 5 for possible actions by the manufacturer to maintain compliance records.¹⁷

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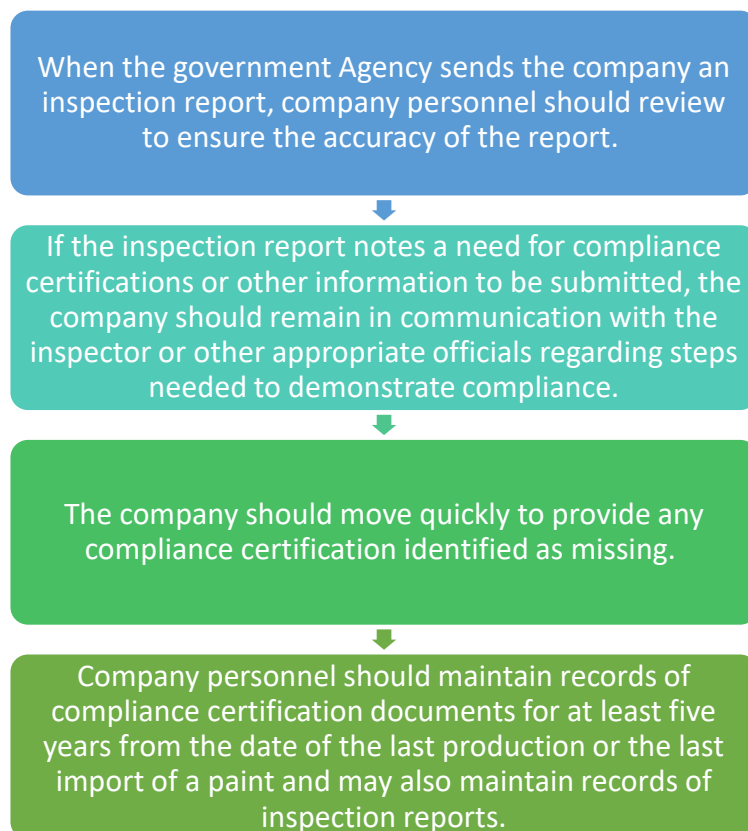


Figure 5: What should paint manufacturers/importers do after the inspection?

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566

567 VI. Enforcement

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569 Enforcement actions foster compliance and a level playing field by providing a credible
570 threat of sanctions for violations. Three basic principles of enforcement are: legal authority
571 to enforce, deterrence, and fairness. This section describes each of these principles of
572 enforcement.

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¹⁶ For an example of a record retention requirement, see UNEP 2018, Appendix I, section D.

¹⁷ Note: Provisions in different countries' laws may vary.

578 A. Basic Principles of Enforcement

579

580 1. Legal Authority to Enforce

581

582 Clear legal authority of the government agency responsible for enforcing the lead paint law is
583 important for the credibility of its enforcement efforts. This includes the authority for
584 inspections discussed in Section V.B.1 above, and enforcement authority including a range of
585 sanctions to provide a strong incentive for compliance.

586

587 Enforcement sanction authority may include the ability to:

- 588 • Impose a monetary penalty (see text box 10 below for country example);
- 589 • Seek imprisonment;
- 590 • Seize noncompliant paint or ingredients;
- 591 • Order recall of noncompliant paint or ingredients (see text box below for country
592 example);
- 593 • Bar a facility or company from government loans, guarantees, or contracts;
- 594 • Stop import or manufacture of a particular paint until it is brought into compliance;
- 595 • Shut down a facility or portion of a facility until it achieves compliance; and
- 596 • Emergency powers to enter and correct immediate dangers.

Text box 10: Monetary Penalty

The lead paint law in **Uruguay** includes provisions for monetary penalties (or fines) for violations. Depending on the severity of the violation, fines range from approximately \$600 US Dollars to \$420,000 US Dollars. The amount of the fine is established on a case-by-case basis, depending on the magnitude of the offense and its environmental consequences, as well as the background of the offender. (UNEP 2022c, Module F-6; Uruguay 2011)

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Text box 11: Recall of paint exceeding lead limit

Israel established a lead paint standard with a 90 ppm lead concentration limit for all paints in 2019. In November 2021, the Commissioner for Standards in the Ministry of Economy issued a recall of a spray paint exceeding the regulatory limit. The recall called for immediate cessation of use and provided contact information for purchasers to return the product and receive monetary compensation from the manufacturer. (Israel, The Standards Institution of Israel 2019; Israel, Ministry of Economy and Industry 2021)

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2. Deterrence

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603 Deterrence is a cornerstone of enforcement. High likelihood of government detection of
604 violations and imposition of resulting sanctions can provide a strong incentive for

605 compliance. If enforcement is weak, companies may conclude it is less costly to violate the
606 law than to comply. On the other hand, if the punishment is excessive, the enforcement
607 program can lose credibility. For these reasons, the appropriate degree of punishment for
608 noncompliance should be thoughtfully considered.

609

610 Strong enforcement action against a company for violating the requirements in the law
611 creates an incentive for compliance by the regulated community. Governments may publicize
612 such outcomes in order to magnify the deterrent effect of enforcement actions across the
613 regulated community and discourage repeat violations.

614

615 *3. Fairness*

616

617 Enforcement actions should be proportionate to the seriousness of the violation and the risks
618 posed to human health and the environment. The government agency responsible for
619 enforcement should be consistent in the factors that it applies to determine the sanctions for
620 violations (See Section VI.C). The agency should also be consistent in its inspection
621 procedures. Such consistency fosters understanding that the enforcement process is fair and
622 reasonable and promotes respect for outcomes, which lends credibility and legitimacy to
623 enforcement efforts.

624

625 *B. Choice of Enforcement Response*

626

627 The agency's choice of enforcement response may be based on the specific circumstances of
628 the inspection, post-inspection outcomes, and the potential violations. Enforcement
629 responses may be informal or formal as outlined below.

630

631 *1. Informal Enforcement Responses*

632

633 One type of informal response is a warning letter. Warning letters can inform a company of
634 the violations found and list specific steps to come into compliance. A warning letter may
635 include reporting deadlines to complete specific compliance actions including submission of
636 the certification(s) of compliance. Warning letters may also provide for follow up
637 communications between the inspector and the company. Thus, warning letters can provide
638 the agency an opportunity to engage with the company to correct any violations and come
639 into compliance.

640

641 When a warning letter leads to a company quickly coming into compliance, an enforcement
642 agency will resolve the case and forgo formal action, as compliance has been achieved. This
643 illustrates that enforcement is not the main objective, but a critical tool to foster compliance.
644 Where a warning letter does not lead to compliance, formal enforcement action is warranted.

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2. Formal Enforcement Responses

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A lead paint law (or another relevant law) may specify civil or criminal proceedings for enforcement against violations. Formal actions such as civil¹⁸ and criminal enforcement are intended to punish violators, compel compliance, and to deter future violations of the lead paint law.

While civil proceedings can be more time-consuming and expensive, civil actions may be more visible and provide greater incentive for compliance.

Criminal punishment for violations can include penalties and/or imprisonment of company officials responsible for the violation. The penalties can be higher than allowed in civil enforcement cases. Criminal actions are typically reserved for the most serious cases and require proof of intent.

In some cases, the enforcement agency and the company may negotiate a settlement agreement providing for an agreed penalty and/or other remedies without the need for a court proceeding.

A negotiated settlement agreement may include specific compliance actions and deadlines to document compliance to the agency.

C. Factors influencing choice of enforcement response

An agency responsible for enforcement of a lead paint law can consider its enforcement response based on the following factors:

- actual or potential harm (the degree to which the violation results in actual harm or increases risk to public health and/or the environment);
- extent of deviation from meeting the requirements. For example, manufacturing or importing paint with very high levels of lead might lead to a higher penalty than manufacturing or importing paint with a level of lead slightly above the limit (see text box 12 below for example of a government enforcement response);
- the intent of the paint manufacturer or importer. For example, falsifying a certification document might be addressed as a criminal violation;
- whether the violation was self-disclosed or discovered on inspection. A violation disclosed by the company to the agency responsible for enforcement might warrant a less stringent penalty than a violation discovered by the agency in an inspection;
- whether the violator has a history of noncompliance.

¹⁸ In some countries, civil enforcement proceedings may include administrative proceedings as well as civil judicial proceedings. Administrative enforcement actions are non-judicial enforcement actions using informal administrative proceedings rather than judicial proceedings. Parties in a proceeding present evidence (relevant facts, documentation, witness testimony, inspection reports, etc.) before a hearing officer working at the agency rather than in the judiciary. The hearing officer performs many of the functions of a judge with less procedural formality. Hearing officers have the power to apply civil sanctions for violations of the law.

Text box 12: Government Enforcement Response - Extremely high levels of lead in paint

If a manufacturer produces household paint with lead above 10,000 ppm, this likely means that the company uses a lead-containing additive in manufacturing this paint. The agency might consider bringing a civil judicial action or even a criminal enforcement action to address such a serious violation. In addition, immediate public health and environment concerns may warrant seizure or recall of the paint and an immediate stoppage of production of this paint.

689

690 For an example of a government enforcement response for failure to produce compliance
691 documentation, see text box 13 below.

692

Text box 13: Government Enforcement Response - Violation of documentation requirement

Where an inspector finds that a company failed to provide compliance documentation, a warning letter might be sufficient to prompt compliance. However, depending on the significance of the omission, administrative or civil enforcement action may be appropriate enforcement responses. Such “paperwork” violations should be taken seriously, as proper documentation can be critical to the agency’s ability to verify compliance.

693

D. Penalty Considerations

694

695 The factors listed in section VI. C. above can influence both the agency’s choice of
696 enforcement response and the magnitude of the penalty. Determining an appropriate penalty
697 may also be influenced by: (1) a claim that the company is unable to pay the penalty
698 proposed by the agency; and (2) the goal of ensuring that violators do not financially benefit
699 from noncompliance. For example, the Model Law contains sample legal text for penalties
700 (see UNEP 2018, Appendix I, section H).

701

702 To assess a claim of inability to pay, the agency or court should determine whether the
703 penalty is excessive in light of the potential adverse impact on the community if the penalty
704 were to result in the company ceasing operations. Where inability to pay is documented by
705 official company financial records (e.g., going back at least 5 years), a penalty can be
706 reduced. Alternatively, a company may be afforded an opportunity to submit payments in
707 installments over a specified time in order to mitigate the potential for an unintended adverse
708 financial impact.

709

710 A paint manufacturer or importer may perceive a financial benefit from noncompliance or
711 delaying compliance. Thus, an appropriate enforcement response and penalty should be
712 sufficient to motivate compliance. A penalty should exceed the economic benefit of
713

714 noncompliance to maintain a level playing field by ensuring that those who do comply with
715 the lead paint law are not disadvantaged relative to those who do not comply.

716

717 E. Other Types of Remedies

718

719 The lead paint law or other laws may provide legal authority for additional types of
720 enforcement sanctions and other remedies beyond financial penalties (as listed above in
721 section VI.A.1). For example, a lead paint law may authorize seizure or the recall of paints
722 that do not comply with a legal limit on lead content in paint (See, for example, UNEP 2018,
723 Key Element I; Israel, Ministry of Economy and Industry 2021). Another remedy to compel
724 compliance is to stop production of a noncompliant paint until compliance is achieved.

725

726 Application of such remedies, like penalties, would depend upon the circumstances of the
727 violation, including the potential harm to human health and the environment and the
728 compliance history of the violator. For example, in the above case of the manufacturer of
729 household paint producing paint with lead levels of 10,000 ppm and thus far exceeding the
730 legal limit, immediate public health and environment concerns may warrant seizure or recall
731 of the paint and an immediate stoppage of production of this paint. In cases where a violator
732 refuses to comply, an escalation of sanctions may be useful to compel compliance. Also,
733 some laws, such as in the Lao People's Democratic Republic, contain provisions that require
734 a violator to remediate environmental damage caused by the violations or authorize the
735 government to clean up the damage and recover the cost from the violator (Lao People's
736 Democratic Republic, Ministry of Natural Resources and Environment 2021).

737

738 F. Citizen Suits

739

740 The Model Law contains sample legal text for provisions authorizing members of the public
741 or groups to bring cases to enforce the lead paint law in court (see UNEP 2018, Appendix I,
742 section J). Such actions are known by a variety of names in different countries, such as
743 "citizen suits" in the U.S. and "public interest litigations" in China. A citizen suit provision
744 can enable members of the public to become stewards of lead paint law enforcement and may
745 fill gaps where the agency is not enforcing, provided it includes appropriate procedural
746 requirements to screen out duplicative or non-meritorious claims.

747

748 VII. Periodic Evaluation

749

750 A periodic evaluation of a lead paint law compliance and enforcement strategy can be helpful
751 to assess effectiveness and promote efficiency and improvement over time. Inspection record
752 information on violations and enforcement actions may allow evaluators to identify pockets
753 of noncompliance, where manufacture, import, or sale of lead paint above the lead limit is
754 continuing. The evaluation may identify opportunities to improve compliance by adjusting
755 the number, training, or equipment of inspectors or the approach to targeting inspections.
756 Evaluations may also identify whether lack of understanding of requirements, difficulty
757 reformulating or testing paints, or other factors are impeding compliance. The results of an
758 evaluation may suggest a need to shift or mobilize financial or human resources to increase

759 effectiveness of the compliance and enforcement strategy or the lead paint law. For a country
760 example, see the text box 14 below.
761

Text box 14: Revising standard to improve enforcement

The 2014 mandatory lead paint standard in **Malawi** states that there shall be ‘no lead in paint’ in emulsion and oil paints for interior and exterior use. In 2020, 57% of home-use solvent-based paints tested contained lead exceeding the internationally common limit of 90 ppm lead, and 9% of samples tested had lead content greater than 10,000 ppm. The government responded by prioritizing enforcement of a lead limit and monitoring lead content in paint, focusing on colored paints. As of March 2022, the government has set up a multi-stakeholder technical committee to revise the standard to establish a 90 ppm lead limit and to establish a transition deadline to facilitate compliance. (Lead Exposure Elimination Project [LEEP] 2021; UNEP 2022b; Malawi [law reference to be added when available via WHO GHO database])

762

VIII. Conclusion

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764

765 The Guidance outlines compliance and enforcement actions for government officials and
766 provides examples, including from countries that have enacted lead paint laws. The
767 Guidance also provides examples of actions paint manufacturers and importers can take to
768 demonstrate compliance. The development and implementation of effective lead paint laws
769 and compliance and enforcement strategies is important to reducing harmful adverse impacts
770 from lead paint.

771 IX. References

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898 **APPENDIX A: Sample Certification Form**

899 [This is a sample certification form to demonstration compliance with a law regulating lead paint. The format of the form may
 900 vary depending on the details of a country’s lead paint law. See also UNEP Lead Paint Law Compliance and Enforcement
 901 Guidance for additional information]
 902 [manufacturer or importer logo]
 903 **DECLARATION OF CONFORMITY**

Description of the product	<i>[description of paints or coating materials to be included under this declaration]</i>
Product	<i>[list of specific paint [names and] identification or product numbers – to be determined by manufacturer or importer, to level of detail sufficient to distinguish included products]</i>
Name and Address of the manufacturer or importer providing this Declaration	<i>[company name, company address including country, company contact number, company email address]</i>

904 This declaration of conformity is issued under the sole responsibility of the manufacturer or importer.
 905 We affirm that the paint and coatings products listed above are in conformity with the requirements of:

- 906 1. *[relevant national standard, regulation, or statute] on the permissible lead content of paints and*
 907 *similar coatings*
 908 2. *[additional statutory requirements, as applicable]*

909 This declaration is based on the manufacturer’s or importer’s knowledge of the materials that go into its
 910 products and laboratory analysis of its products as of the date of submission of this declaration.

Regulated substances	Maximum Concentration Value in ppm
Total Lead (Pb)	90*

911 *Maximum limit does not apply to applications covered by legal exemption.

912 Applicable exemption(s): *[TBD in national legislation]*

913 Analysis of a sample of the above covered product was tested at the below accredited laboratory:

Testing Laboratory	<i>[name and address of laboratory and laboratory accreditation information]</i>
Contact person at testing laboratory	<i>[name and contact number of individual responsible for certifying test results]</i>
Date of testing	<i>[date]</i>
Test used	<i>[ISO or ASTM test conducted]</i>

914
 915 Sample(s) were found to contain the following concentration(s) of the regulated substances.

Product number	Substance	Concentration found
<i>[prod. # 1]</i>	<i>Lead (Pb)</i>	<i>[enter concentration found]</i>

916 By signature below, I affirm under penalty of law that the above reported information is accurate.

917 _____
 918 Signature Date of signature

919 *[Name and title of a high-level company official who performs policy or decision-making functions for the manufacturer or*
 920 *importer and is authorized to report on behalf of the manufacturer or importer]*

921 **APPENDIX B: Sample Checklist for Lead Paint Law Inspections**

922 [This is a sample template for an inspection to verify compliance with a law regulating lead paint. The format for
 923 actual inspection checklist for compliance with lead paint laws may vary depending on the details of a country’s
 924 lead paint law. See also UNEP Lead Paint Law Compliance and Enforcement Guidance for additional information.]
 925

Facility Name:	Agency Name:
Facility Address: _____	Inspector Name: _____
Facility Contact Name: _____	Telephone/Fax: _____
Telephone/Fax: _____	_____
Email: _____	Email: _____
	Date of Inspection: [add once completed]

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 927 **I. Pre-Inspection:** Gather relevant information on the facility prior to inspection.
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A. Review Key Compliance Provisions in the Lead Paint Law	Check box	Notes
1. What type(s) of paints is(are) subject to the lead paint law ¹⁹ ?		
2. What compliance date does the lead paint law establish for the type(s) of paint manufactured or imported at this facility?		
3. What are the compliance documentation requirements in the lead paint law?		
B. Inspection Materials (as needed)	Check box	Notes
4. Notebook		
5. Equipment to take samples for lab or XRF analysis, including pieces of wood upon which to apply the paint, single-use paintbrushes and stirring utensils and a container to transport the samples. Prior to sampling, the pieces of wood and stirring utensils should not have any paint or coating materials on them.		
6. Other materials		
C. Compliance Promotion Materials to Provide to the Facility (as needed)	Check box	Notes
7. Country-specific information on the lead paint law requirements		
8. List of accredited labs		
9. List of suppliers of non-lead alternative ingredients		
10. Country-specific forms for documenting compliance		

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¹⁹This Sample Checklist uses the term “law” broadly to refer to the different types of legal instruments used in countries to regulate lead paints, including statutes, legislation, regulations, decrees, and technical standards, among others.

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II. Onsite Inspection

A. Facility Arrival	Circle or Fill In
1. Conduct inspection on a reasonable date and at a reasonable time	Date: Time:
2. Present inspector credentials upon entry	Yes or No
3. Conduct introductory meeting to explain the purpose of the inspection	Yes or No

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B. Applicability: Is this manufacturer or importer subject to the Lead Paint Law? (Choose applicable facility type being inspected)	Circle or Fill In
4. MANUFACTURER PAINT TYPE: What type of paint is manufactured? [Note – there are no standardized definitions for different paint types. Countries may use different terms for the types of paint (household, decorative, industrial, etc.). Use the terminology in the Lead Paint Law of your country.]	Paint Type(s):
5. IMPORTER PAINT TYPE: What type(s) of paint is being imported? What is the name of the company importing the paint? Name of Company _____ Name of Paint(s) _____	Paint Type(s):
6. SCOPE/APPLICABILITY: Does the lead paint law limit lead content in this(these) type(s) of paint? [Note – Different countries’ lead paint laws vary in the types of paint covered.] Type of paint covered _____	Yes or No
7. COMPLIANCE DATE (CD): On the date of the inspection, is the limit on lead content in paint mandatory for the type(s) of paint manufactured or imported? [Note - some countries’ lead paint laws include different compliance dates for different types of paints.]	Yes or No
	Paint Type:
	CD:
	Paint Type:
	CD:
	Paint Type:
	CD:

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II. Onsite Inspection (continued)

C. Compliance: Request for Paint Certification Documentation [Note – some inspections will check compliance documentation, some will check labels, some will include taking samples, some will include onsite testing to screen for potential violations, and some will include a combination of these activities. A particular inspection may omit one or more of the activities listed below.]	
Onsite Inspection Activity	Circle and/or Comment
8. Request a list of all paints manufactured at the facility subject to the lead paint law.	Yes or No or not applicable(n/a)
9. Request compliance documentation (certification, registration, or Document of Conformity) for each paint subject to the Lead Paint Law attesting to compliance with the limit on lead in paint. [Note – review of compliance documentation can be conducted onsite or remotely]	Yes or No or (n/a)
10. Sample paint(s) Provide facility with a split sample, if requested.	Yes or No or n/a
11. MATERIAL CHANGE: Has there been a material change to any of the paint formulations since the test that formed the basis for the certification of compliance was conducted?	Yes or No or n/a
12. If there has been a material change, has the company retested the paint after the material change?	Yes or No or n/a
13. Are there paints onsite produced prior to the compliance date of the Lead Paint Law with lead content exceeding the established lead limit? (a). If the answer to question 13 is yes, did the inspector inform the Company of any relevant provisions relating to disposal or sale?	Yes or No or n/a Yes or No or n/a
14. Did the inspector conduct a Closing Meeting to inform the company of any next steps?	Yes or No
15. Include other requirements from the Lead Paint Law in your country not included above.	Yes or No

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III. Post Inspection (offsite)

A. Inspection Report Recording Inspection Compliance Information	Circle Response
1. Did the inspector compare the list of all paints produced at the company that are subject to the Lead Paint Law, to the certifications obtained from the company?	Yes or No or n/a
2. Are there any missing certifications?	Yes or No or n/a
3. Complete the Inspection Report.	Yes or No
4. If there are missing certifications, contact an enforcement official after the Inspection Report has been completed.	Yes or No or n/a
5. If all certifications were provided, complete the Inspection Report and place the report in the appropriate file for future reference.	Yes or No or n/a
6. Test paint sample(s) once they have sufficiently dried (a) Screen using handheld XRF, or (b) Send sample(s) to lab for analysis	Yes or No or n/a Yes or No or n/a
7(a). Onsite testing and/or lab analysis results should be compared to the lead limit established in the country's Lead Paint Law ²⁰ and the manufacturer or importer should be notified of these results. If these results exceed the lead limit, notify appropriate enforcement officials.	Yes or No or n/a
7(b). The results of inspector onsite screening using handheld XRF should be compared to the lead limit established in the country's Lead Paint Law and the manufacturer or importer should be notified of these results. If these results exceed the lead limit, notify appropriate enforcement officials.	Yes or No or n/a
8. If the type of paint covered in the Lead Paint Law has a different compliance date from the other paint types, as noted in B.7., note the compliance date for this type of paint for a future inspection.	n/a or Return Inspection Date: _____

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²⁰ For example, the Lead Paint Laws of many countries establish a legal limit of lead content in paint of 90 ppm.

961 **APPENDIX C: Inspection Report Template**

962 [This is a sample template for an inspection report for an inspection to verify compliance with a law regulating lead
963 paint. The format for actual inspection reports for compliance with lead paint laws may vary depending on the
964 details of a country's lead paint law. Text in red indicates where relevant information about the inspection can be
965 added. Check boxes provide a convenient way to check off completed action items.]
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967 **INSPECTION REPORT**

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969 **FACILITY NAME:** [Name: Company Name; Facility name]

970

971 **ADDRESS:** [Street, Building Number]

972 [State or Province, Town, Postcode]

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974 **DATE OF INSPECTION:** [Date]

975

976 **INSPECTOR:** [Inspector's Name]

977 [Title]

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980 **PREPARED BY:** _____

981 [Inspector's Name] Date

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986 **APPROVED BY:** _____

987 [Supervisor Name] Date

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991 **Purpose of Inspection**

992 This inspection was an evaluation of the [Facility Name]'s compliance with the lead paint law [citation to
993 lead paint law].

994 **Participants**

995 *Inspector(s):*

996 [Inspector's name], [Title] [Government Agency]

997 [Any other person accompanying the inspector such as sub-national government or other agency
998 official], [Name of Agency or office]

999 *Company Representative(s):*

1000 [Facility Representative(s)] [Title(s)]

1001 [Contact information, telephone number and email]

1002

1003 **Introduction**

1004 On [date], I/we arrived at the site at approximately [time]. I/We introduced ourselves, presented our
1005 inspector credentials, [identification], provided contact information, and described the purpose and
1006 process by which we intended to conduct the inspection. [Name of Facility point of contact(s)] provided
1007 us with a description of the Company/Facility:

1008 [Brief narrative description of the Facility's operations including types of paints produced e.g.,
1009 household, decorative, architectural, industrial, marine, etc.]

1010 **Lead Paint Law Compliance Resources (as needed)**

1011 I/We provided the [Facility name] with lead paint law compliance resources.

1012 **Lead Paint Certification Records Review**

1013 I/We have requested the following documents:

1014 (1) a listing of all paint produced at [Facility name]; and

1015 (2) the corresponding certification records for each paint subject to the lead paint law.

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1019 **Lead Paint Certification Request Observations**

1020 Depending upon the circumstances at the inspection, either 1, 2, or 3 below may be an outcome of
1021 records review at the Facility:

1022 (1) Certifications records were provided for [identified] paints.

1023 Certification records were not provided for the following paints: [identified paints]; or

1024 (2) The [Facility representative name and contact information (if different from above)]
1025 intends to email me a remainder of the certifications. During my inspection I reviewed [X out
1026 of Y] paint certification records; or

1027 (3) No certification records were provided upon request.

1028 **Sampling and Testing**

1029 [Inspector] took [X] number of samples from [Y] paint(s) and they were sent to a third-party
1030 accredited laboratory for analysis.

1031 [Note: before sending a paint sample for laboratory testing, some governments may use a
1032 portable XRF Analyzer to screen for the presence of lead. If the XRF results show a level close
1033 to the regulatory limit, a sample of that paint may be sent to a laboratory to verify whether
1034 the lead concentration meets the regulatory limit.]

1035 **Closing Conference**

1036 The Lead Paint Law and certification review issues observed during the inspection are listed here: (e.g.,
1037 name and number of paints not certified, any other observations related to the lead paint law).

1038 **Post-Inspection (where applicable)**

1039 *Additional documents or information needed from Facility*

1040 The [Facility representative] will mail or email additional documentation listed below that was
1041 not provided during the inspections within a mutually-agreed timeframe:

1042 [Agency to list additional documentation requested, such as any test results and certifications of
1043 identified paints that were not presented to the inspector upon request during the inspection.]

1044 *Items to be provided by the Agency inspector/appropriate enforcement official*

1045 The [Inspector/enforcement official] will mail or email the results of lab analyses of samples
1046 collected at the facility in order to document the status of compliance with the lead
1047 concentration limit.

1048 **Attachments**

- 1049 A. Copies of document(s) provided during Inspection
1050 B. Copies of Post-Inspection Documents Received to Date
1051

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