

A Model Law and Guidance for Regulating Lead Paint

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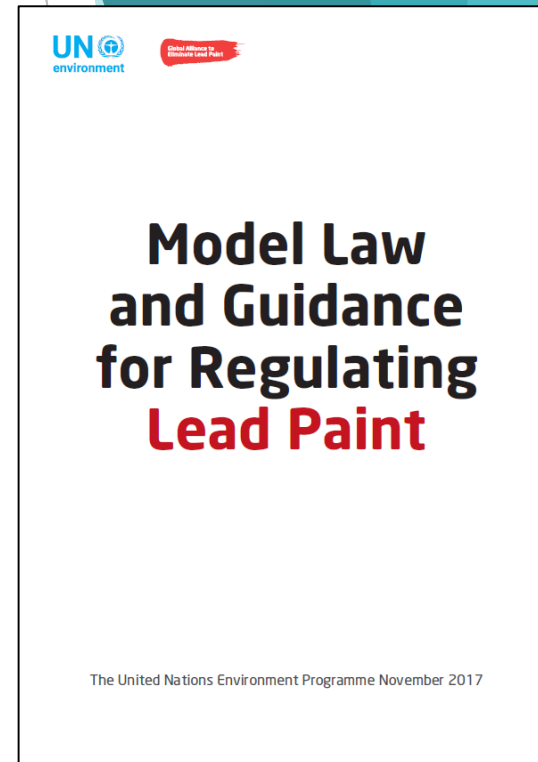
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**Global Alliance to
Eliminate Lead Paint**



Purpose of the Model Law and Guidance

- ▶ Governments requested a model law to help phase out lead paint
- ▶ Developed by UN Environment with US EPA and WHO; currently available online in 6 UN languages
- ▶ Provides global best practices in regulating lead in paint and serves as a template for strong, straightforward, efficient lead paint limitations
- ▶ Not intended to be a one-size fits all approach, but to be adapted to each country's existing legal framework
- ▶ Lead paint “laws” can take various forms in a country, including statutes, regulations, and mandatory technical standards – as long as the “law” has enforcement provisions and penalties for non-compliance



Drafting Process for Model Law and Guidance

- ▶ Model Law and Guidance was created through multi-stakeholder, participatory process over one year and finalized in autumn 2017
- ▶ Model law is based on existing lead paint laws, and includes changes to reflect lessons learned and to make it both easy to implement and customizable to national circumstances
- ▶ Worked with stakeholders (industry, civil society, technical experts) on the draft, and incorporated their comments
- ▶ Draft provided on the United Nations Environment web site to solicit public comment from all stakeholders

Key Provisions of the Model Law

- ▶ Benefits
 - ▶ Encourages a worldwide, consistent lead limit of 90 ppm that applies to all paints
 - ▶ Reduces trade barriers through consistent standards
- ▶ The Model Law and Guidance recommends that regulations include:
 - ▶ Clear definitions and scope
 - ▶ 90ppm limit on total lead concentration
 - ▶ Setting effective dates
 - ▶ Standards for paint sampling and testing
 - ▶ Compliance and enforcement provisions
 - ▶ Consequences for non-compliance

Model Law: Key Considerations

- ▶ Model Law can be used to draft a statute, regulation, and/or mandatory technical standard
 - ▶ Countries have taken different approaches, depending on their individual legal frameworks
 - ▶ Components of the Model Law can be separated and added to existing laws
- ▶ Potential benefits from using a multi-stakeholder process to develop a lead paint law include:
 - ▶ Buy-in from key stakeholder groups
 - ▶ Valuable technical input from industry

Summary of Model Law and Guidance

- ▶ Structure: 1. Guidance; 2. Model Law
- ▶ Guidance provides:
 - ▶ Detailed background on the public health and economic costs of lead in paint
 - ▶ Explains the benefits of lead paint laws as the only way to ensure low lead paint levels, including trade benefits and economic and health benefits
 - ▶ Presents the key elements of an effective lead paint law
- ▶ Model Law provides template language for a lead paint law

Establishing a Legal Limit: 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 a very low limit of 90ppm is recommended.

Setting Effective Dates

- ▶ Provides industry with a timeline for compliance
- ▶ A country can choose to use either delayed effective dates for all paints, or phased effective dates for different types of paints (for example, one year for household paints, two years for industrial paints)

Compliance and Enforcement Mechanisms

- ▶ Model law uses a “Declaration of Conformity” process to promote compliance and provide a mechanism for enforcement
- ▶ A Declaration of Conformity (DoC) is a simplified type of conformity assessment procedure (as opposed to full-scale certification process)
- ▶ Primary responsibility for DoC compliance is placed on paint manufacturers and importers

Compliance and Enforcement Mechanisms

- ▶ What actions constitute a violation of the law?
 - ▶ Manufacturing, selling, distributing, or importing paint containing lead over the legal limit
 - ▶ KEY: Because sale and distribution of lead paint is prohibited, retailers and distributors are incentivized to check the declarations of conformity they receive from manufacturers, or importers.
 - ▶ Failing to cooperate with government inspectors/testing
 - ▶ Failing to provide a DoC or making a false declaration
 - ▶ Attempting to exert undue influence over third party laboratory testing the paint

Recommended Sampling and Testing Standards

- ▶ The Model Law includes a list of recommended international standards for paint sampling and testing
 - ▶ Sampling:
 - ▶ ISO 1513, Paints and varnishes - Examination and preparation of test samples
 - ▶ ISO 1514, Paints and varnishes - Standard panels for testing
 - ▶ Testing:
 - ▶ ISO 6503, Paints and varnishes - Determination of total lead - Flame atomic absorption spectrometric method

Assistance Available from ABA ROLI

- ▶ The Rule of Law Initiative of the American Bar Association (ABA ROLI) is an executing partner in the SAICM GEF project lead paint component
- ▶ ABA ROLI is providing legal support to countries for drafting lead paint laws, coordinating with UN Environment Law Division and many other international, regional, and national experts.

Assistance Available from ABA ROLI

- ▶ Legal support may include:
 - ▶ Legal research summarizing existing country limitations on lead in paint, toxic chemicals in consumer products, or other relevant topics
 - ▶ National-level meetings with appropriate national stakeholders to discuss topics such as the Model Law, drafting national lead paint laws, ABA ROLI legal research or recommendations, or related issues
 - ▶ Recommendations for drafting lead paint laws, in cooperation with national stakeholders
 - ▶ Legal review and feedback on lead paint draft laws

Thank you for your attention

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