

# 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  
*6 August 2020*

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**Global Alliance to  
Eliminate Lead Paint**



# Why Establish Lead Paint Laws?

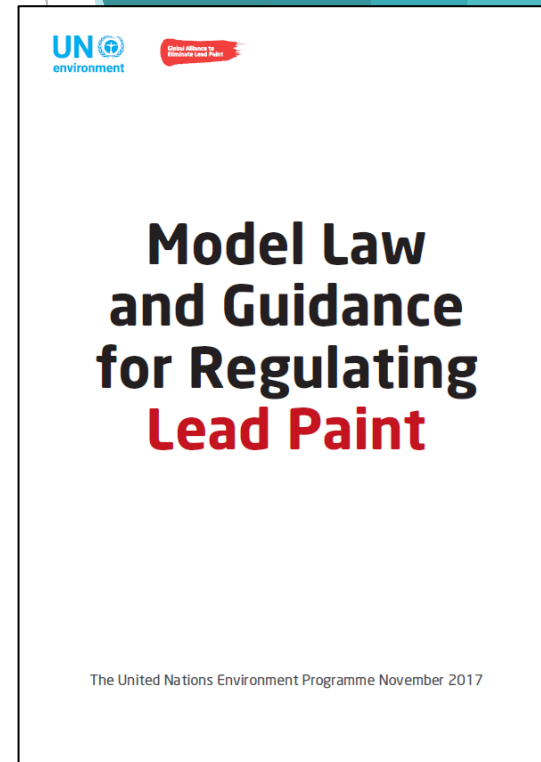
- ▶ **Incentives for change:**
  - ▶ For manufacturers to reformulate paints
  - ▶ For ingredient suppliers to produce more and better non-lead ingredients
  - ▶ For importers to sell paints that comply with law
- ▶ **Benefits for industry:**
  - ▶ National laws create a fair market for all paint manufacturers, 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