



Regional Workshop for Latin America and Caribbean on Lead in Paints

Panama City, June 12-13, 2019
Exchanging Experiences:
Brazilian Legislation





Brazilian legal framework on lead in paints:

Law no. 11762 of 2008

The first Brazilian law on lead in paints, still in force, has many gaps, for example:

- Establishes the max allowable limit of lead in 600 ppm
- Allows many exceptions, restricting the rules for housing paints, paints for children and school uses, varnishes and similar coating materials only. There are no rules for control of lead in other paints.
- The law does not establish which is the competent authority to enforce the law, and does not provide enough powers to it.
- The maximum value of the fine may not exceed the value of the products seized (very low amount).
- Academy, NGOs and other experts were not consulted.

**In 2009, invited to participate in the IPEN Global Project,
the Brazilian NGO APROMAC collected paints
in the Brazilian market**

**24 enamels were collected in the city of Curitiba,
State of Paraná**

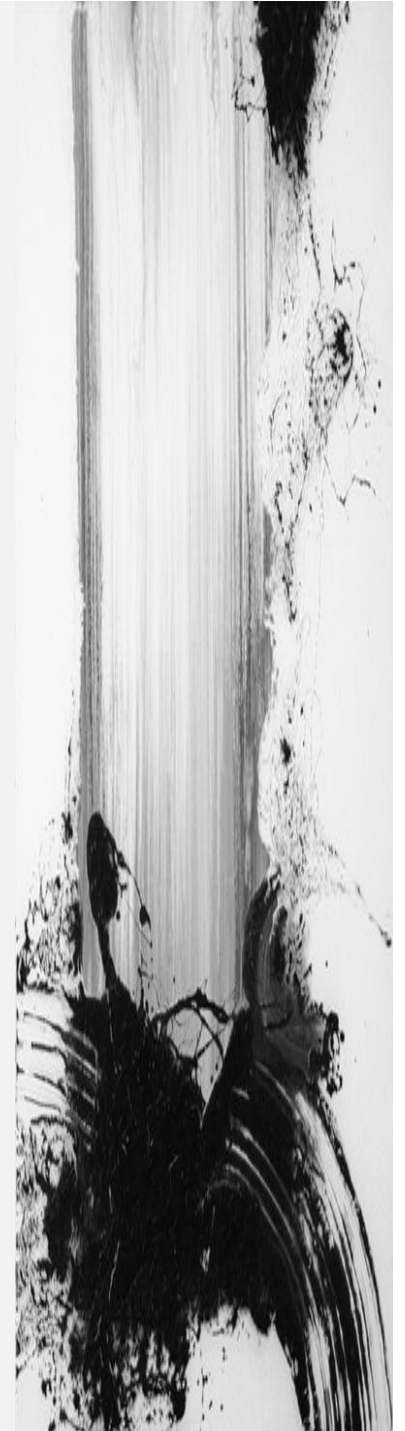
10 samples (42%) with lead above 90 ppm

9 samples (37%) with lead above 600 ppm

Renner yellow **170,000 ppm**
(almost **300** times
above the max allowable limit)

Suvinil red **66,125 ppm**

Dacar red **19,080 ppm**



After requiring to authorities to comply with the Law, without success,
in **2010** APROMAC appealed to the Federal Public Prosecutor
in the State of Parana,
asking measures to assure the enforcement of the law, in special, to
request the designation of a “competent authority”.



In **2011** the NGO TOXISPHERA Environmental Health Association
tested new samples of paints under the orientation of Dr. Scott Clark,
from the University of Cincinnati, USA.

In this new study with 20 samples, **10** had not been analysed in the 2009 IPEN Global Study.

The tests revealed that **50%** of these **10 samples** contained lead above of the allowable limit (600ppm).

2 samples contained lead above 90ppm
(**521 ppm** and **90.7 ppm**)

This new Brazilian study was part of an investigation in 4 countries (Brazil, India, Kazakhstan and Armenia).



Two of the five samples found with lead above 600 ppm contained **58.800** ppm and **48.000** ppm, respectively.

The other three samples informed that “it does not contain lead”, although they had **1.470** ppm, **1.910** ppm and **2.050** ppm respectively.



It was only in 2016 that the federal public prosecutor started a civil action against the Union requiring the designation of the competent authority to enforce the law.

In response to the court, the Federal Government indicated the National Institute of Metrology, Quality and Technology – INMETRO as the competent authority to enforce the law.



In 2017, to assist the Union to comply with the legal process, the National Chemical Safety Commission (CONASQ) of the Ministry of Environment created a “lead in paints WG” and wrote a presidential decree by consensus of all stakeholders. The decree was published in 2018.

In parallel, a new bill was agreed to be drafted among the participants of the WG, taking the opportunity to propose an alternative to the law in force.

The draft bill expands the scope of the paints to be ruled, reduces the maximum allowable limit of lead to 90ppm and gives better provisions to facilitate the performance of the competent authority (INMETRO).



However, in 2019, changes were made in the federal governmental administration, with new ministers and staffs.

The present government's actions regarding the control of lead in paints are the following:



- When questioned by APROMAC in June of 2019, the INMETRO's new inspection director informed that the institute is not prepared yet to assume the commitment established by the decree alleging lack of financial resources. Also he informed that the Institute does not have strategic plan of monitoring of lead in paints or communication plans to raise awareness of the consumers and public up to now.
- The bill drafted by CONASQ, that aims to improve the actual legal framework of lead in paints, was not sent to the Civil Cabinet yet, being necessary that three ministries restart the administrative process (Ministry of Environment, Ministry of Health and Ministry of Industry, Commerce and Services), for that the bill may follow to the National Congress.

Recommendations



It is strongly necessary to enforce the decree that regulates the 2008 Law. INMETRO may articulate with other authorities towards customs control of the formulations imported. The internal articulation among governmental agencies is not expensive, even more considering that the control of this toxic substance means huge gains for the children health, for the public health and environment. Also, a low-cost communication plan may be put in place through the Special Secretariat of Social Communication, without extra costs for the taxpayers.



Other less-expensive approaches to control the use of lead in paints may include partnerships and covenants with industry sector, NGOs, laboratories from public universities, public health sector and state and local environment agencies.



It is also noted that INMETRO has at its disposal the National System of Metrology, Standardization and Industrial Quality, formed by the state institutes of weights and measures, certified laboratories, technical committees and many other entities. It means that in each state of the Brazilian federation, INMETRO has technical focal points to collect and analyse paints, with institutional methodology and capacity building, and many other actions needed to raise awareness of the consumer and those concerned with health and environment quality and safety.



The draft bill – developed by CONASQ to improve the law in force – needs to be sent to the National Congress immediately. It is a relatively easy and not expensive action to be made by the authorities involved. If the bill is approved integrally, INMETRO will have adequate sources of funds to a better enforcement, among other provisions designed to facilitate the performance of the institute in the attendance of its obligations.



- In the beginning of 2019, the National Chemical Safety Commission, a multi-stakeholder and multi-ministerial group was suddenly extinguished by a presidential decree without previous dialogue with civil society, workers and industry.

We strongly recommend that CONASQ be reactivated immediately, since it is the only Brazilian commission that deals with public policies regarding chemicals, health and environment. Conasq has several multi-stakeholder working groups that offers significant and expert proposals and services in the implementation of international chemicals conventions and other related national legislations, including technical support for international projects execution in Brazil.

Thank You

Zuleica Nycz

*FBOMS Rio 92 Brazilian Forum of NGOs and Social Movements
for the Sustainable Development and Environment/ Chemicals WG*

APROMAC Environment Protection Association

TOXISPHERA Environmental Health Association

zuleica.nycz@gmail.com

Dr. Sara Brosché

Global Lead Paint Elimination Campaign Manager

Science Advisor

SaraBrosche@ipen.org

