

# **Guidance on key building blocks for a national or regional legal framework to limit lead in paint**

*Central & West Africa Workshop on the Development of National & Regional Regulations and Standards on Lead in Paints*

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# Outline

- Overview of Module J: Establishing a Legal Framework to Regulate Lead in Paint
- Model Lead Paint Law: Recommendations Based on Global Experience
- Voluntary versus Regulatory Certification
- US Experience with laws
- Summary



# Module J

## Establishing a Legal Framework to Regulate Lead in paint



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# Objectives of Legal Limits on Lead in Paint

- Prevent the sale and use of lead-containing paint in your country
- Ensure effective means of promoting compliance & enforcing new limits on lead in paint
- Establish institutional responsibilities for management and enforcement of new legal limits



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# 4 Key Principles of Effective Legal Limits on Lead in Paint

1. Clearly defined regulated substances, limits, and activities
2. Set effective dates of new requirements
3. Establish a mechanism to promote compliance
4. Set clear consequences for non-compliance



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# 1) Clearly defined regulated substances, limits, and activities

- Regulated substances and limits: paint, lead paint, lead compounds, total lead concentration, etc.
- Regulated activities:
  - Regulated community (Paint manufacturers, etc.)
  - Regulated activities (Manufacture? Use? Import? Export? Disposal? Some or all of these?)
- Prohibited uses of lead-containing paint: define scope
- Exemptions (if any): define criteria of eligibility



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## 2) Set Effective Dates of New Requirements

- Set a specific date by which prohibited paints should no longer be sold
- Solicit input from relevant stakeholders in determining the effective date for new legal limits
- Considerations:
  - Should manufacturers be given time to source and procure non-lead alternative ingredients for paints?
  - Should existing stocks of lead paints be allowed to be sold prior to date of new legal limits?
  - Should existing stocks of lead paint be required to be disposed of rather than sold?



# 3) Establish a mechanism to promote compliance

- Enforcement mechanisms, such as:
  - **Certification requirements** for regulated entities to demonstrate compliance
  - **Paint testing requirements** for regulated entities
  - **Labelling requirements** for regulated entities
  - **Government monitoring program** to provide regular inspections and periodic sampling of paints
- Enforcement responsibilities assigned to government ministries, organizations and/or agencies
- Resources provided to ministries/agencies to responsible for ensuring compliance



## 4) Set clear, transparent consequences for non-compliance

- Consequences: Statutes or regulations should clearly dictate the legal consequences for non-compliance
- Transparency:
  - **For regulated entities**: Government should provide information on how to comply with new requirements and the consequences for non-compliance
  - **For stakeholders and the public**: Government should provide information on compliance status of regulated entities



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# Model Lead Paint Law (*under development*): Recommendations Based on Global Experience

- UNEP developing a guide on a lead paint model law.
- EPA providing input based on national and international experience.
  - Low concentration limit for lead in paint (90 ppm *total* lead).
  - Ban on **all** types of paints over the lead limit (not just consumer use).
  - Mandatory certification requirements, based on international accreditation programs.
  - Effective compliance and enforcement program.
  - Close coordination among health, environmental and other relevant government agencies.



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# Certification of compliance: Mandatory Requirements vs. Voluntary Programs

## • Voluntary Certification Programs

- Manufacturer sends paint samples to independent lab to test for lead content.
- Voluntary program allows paint company to put its “certification mark” on labels to tell consumers that paint meets a specified lead content limit.
- Voluntary program may encourage paint companies to reformulate in absence of regulation, but is not substitute for mandatory testing and government certification program.

## • Mandatory Certification Requirements

- Manufacturer must certify to government that paints have been properly tested for lead content and comply with mandatory limit on lead in paint.
- Compliance with certification requirement can be verified and enforced.



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# U.S. Law: Lead Paint Ban Strengthened Over Time

Regulation under Federal Hazardous Substances Act banned any paint or similar coating with lead content  $>0.5\%$  (**5000 ppm**) total weight of dried paint film.

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Consumer Product Safety Commission (CPSC) regulation reduced total lead limit in consumer paint to **600 ppm**.

Amended law reduced total lead limit to **90 ppm**.

1972

1977

2008



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# US law: Scope of Consumer Ban

## Includes:

- **Paint for consumer use or use on surfaces with public access** (homes, schools, hospitals, parks and other public spaces)
- **Toys & other children's products** with “lead-containing paint”
- Certain **furniture** articles for consumer use with “lead-containing paint”

## Excludes:

- Paint on **motor vehicles and boats**.
- **Industrial and agricultural** uses.

Restricts “lead content” calculated (as lead metal) by the weight of the total nonvolatile content of the paint or the weight of the dried paint film.



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# US law: Compliance mechanisms

## 1. Certification requirements for manufacturers and importers:

**Paint:** Manufacturers must self-certify that lead content is  $< 90$  ppm, based on lab tests.

- Certification is based on test of each product or on a reasonable testing program.
- Must re-certify and re-test if any change to ingredients.

**Children's products:** Manufacturers must use government-accepted 3<sup>rd</sup>-party laboratory to certify lead in paints is  $<90$  ppm



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# US Law: Compliance Mechanisms (*cont.*)

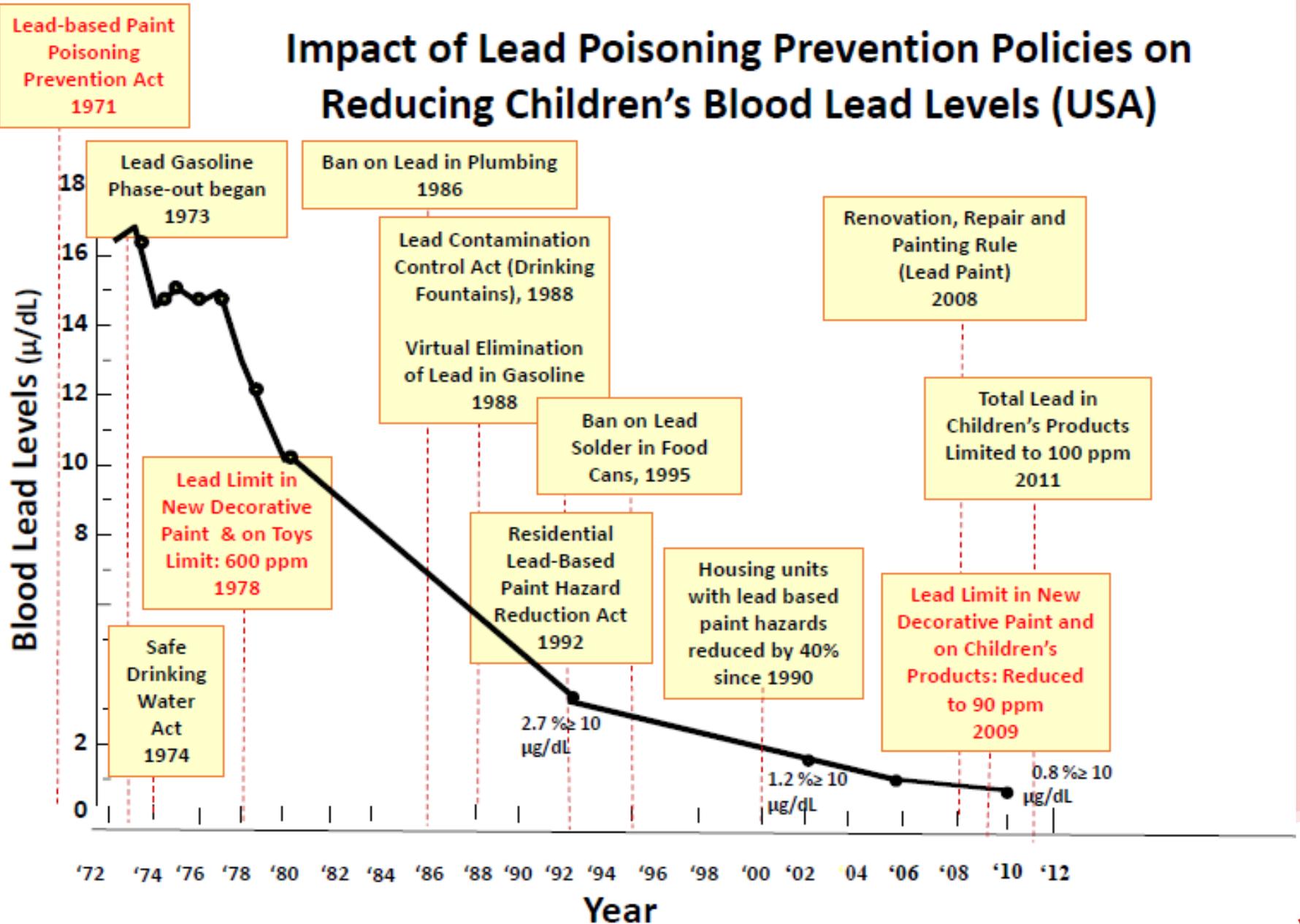
## 2. Government monitoring and enforcement program:

- Manufacturers are subject to inspection by the government.
- Failure to meet the requirements subjects the company to a significant penalty or even seizure of the products.



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# Impact of Lead Poisoning Prevention Policies on Reducing Children's Blood Lead Levels (USA)



# Summary

- Lead paint laws are necessary to eliminate lead in paint and exposures to lead
- The Alliance toolkit outlines key objectives of lead paint laws to help ensure effective compliance and enforcement
- More detailed guidance will be available on how to develop laws, including a recommendation to set a low concentration limit (90 ppm total lead)
- Mandatory certification ensures compliance
- US lead paint laws have effectively reduced exposure to lead



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# Thank you

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**GLOBAL ALLIANCE TO ELIMINATE LEAD PAINT**

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