Module J
Establishing a Legal Framework to Regulate Lead in Paint
Overview

• This module is intended to serve as a guide for legislators, policymakers, public and clinical healthcare providers, and other stakeholders in establishing a national framework for implementing and enforcing legal requirements for the control of lead in new paint used in homes, schools, and other areas.

• The following slides include specific suggestions for establishing a national framework for the control of lead in paint as well as principles of effective and enforceable legal requirements.
The Case for Legal Limits

• The preceding modules present the case for legal requirements controlling lead in paint.
  
  ▪ **Human health effects of lead paint in your country**— no safe exposure level for children, lead can cause serious health impacts (Modules A and B)
  
  ▪ **Economic benefits of eliminating lead in paint**— reduce costs to individuals and society that result from exposure to lead (e.g. healthcare, productivity losses, intellectual disability, exposure to legacy paint) (Module B)
  
  ▪ **Availability of alternatives**— there are cost-effective non-lead alternatives currently being manufactured and are readily available to consumers (Modules D and E)
  
  ▪ **Proven effectiveness of legal regimes for controlling lead in paint**— regulations have proven effective in controlling use of lead paint in many countries resulting in reductions in lead poisoning (Modules F and H). In addition, national controls on the manufacture, import, sale, use, and export of lead paints are more cost-effective in reducing exposure risks than any future remediation programs.
Determining the Best Approach

• Prior to developing or modifying legislation and/or regulatory requirements to limit lead in paint, a suggested first step is to review existing requirements and/or voluntary standards to determine whether a new legal framework or law is needed to adequately protect the public from the risks of lead in paint.

• The case studies in Module H provide examples of how four different countries addressed these risks, by enacting new laws and strengthening existing legal regimes.
Objectives of Legal Limits

• Prevention of the manufacture, use, import, and export of lead paint (see the case studies in Module H for different ways countries have met this objective)

• Development of a system with effective means of enforcement and compliance and effectively integrating the new lead paint laws and regulations into an existing legal framework

• Establishment of institutional responsibilities and arrangements for the management and enforcement of legislation and/or regulation.
Key Principles of Effective Legal Limits

Gather scientific and technical underpinnings

- Scientific information is key to credible and effective legislation and/or regulation

- Types of information could include:
  - Studies that demonstrate the health risks associated with lead (Module C)
  - Data regarding existing levels of lead in new paint (Modules C and F)
  - Information about the existing market and alternatives (Modules D and E)
  - Blood lead level data to provide a baseline for assessing results (Module C)

- Conduct an initial assessment of lead paints being manufactured or sold prior to new law/regulations as a tool for assessing the effectiveness of limits once they are in place
Key Principles of Effective Legal Limits

Provide for public awareness and public input

- Ensure public access to information about the new laws and regulations, including notice of proposals
- Provide opportunities for public input and engagement through the process of developing legal limits, such as the opportunity to provide public comments
- The regulated community and other stakeholders can provide valuable input and suggestions for effective regulation
Key Principles of Effective Legal Limits

Include clear and understandable definitions of regulated substances and regulated activities

Definitions could include:

- **Paint** includes, “varnishes, lacquers, stains, enamels, glazes, primers or coatings used for any purpose; and is typically a mixture of resins, pigments, fillers, solvents and other additives”

- **Lead Paint** as defined as, “paint to which one or more compounds have been added”.

- Continued on next slide
Key Principles of Effective Legal Limits

Include clear and understandable definitions of regulated substances and regulated activities con’t

Definitions could include (con’t):

• **Lead Compounds** compounds typically added to paint include, but are not limited to, Lead carbonate (white lead), Lead chromate, Lead chromate oxide, Lead chromate molybdate sulphate red, Lead sulpho-chromate yellow, Lead 2-ethylhexanoate, Lead molybdate, Lead naphthenate, Lead nitrate, Lead monoxide, Lead oxide, Lead octanoate, Lead peroxide, Lead sulphate, and Tri lead-bis (carbonate)-dihydroxide.

**Total lead concentration** a weight percentage of the total non-volatile portion of the product or in the weight of the dried paint film (e.g. 90 ppm)
Key Principles of Effective Legal Limits

Include clear and understandable definitions of regulated substances and regulated activities

- Clearly address the following questions:
  - Who is your regulated community: Manufactures? Retailers?
  - What part of the paint cycle will be regulated: Manufacture? Use? Import? Export? Disposal? All of these?
  - Are there be prohibited uses or exemptions? If so, describe the scope of prohibitions and the criteria for eligibility for exemptions.
Key Principles of Effective Legal Limits

Set effective dates of new requirements

• Clearly indicate the date by which prohibited products should no longer be sold
• Consider whether to allow stakeholders time to source and procure alternative materials and exhaust existing stocks of lead paint
• Consider whether to require materials be disposed by a given date
  ▪ Who will be responsible for disposal?
  ▪ What methods will be authorized for disposal?
• Coordination with relevant stakeholders in determining a timeline could allow for more effective implementation
Key Principles of Effective Legal Limits

Establish a mechanism to promote compliance

- Provide a mechanism for enforcing the new standard
  - For example: labeling requirements; third-party certification; government inspections and testing (more details on next slide)
- Assign clear responsibilities for the various actions required by the new law or regulation
- Build oversight capacity and provide resources to agencies responsible for ensuring compliance
Key Principles of Effective Legal Limits

Establish a mechanism to promote compliance

- Potential modes of ensuring compliance:
  - Create a monitoring program that includes regular inspections to ensure that paints and related products are being manufactured and sold in accordance with legal limits, and periodic sampling of paints to ensure lead content meets prescribed standards.
  - Institute certification schemes to demonstrate compliance:
    - Voluntary or mandatory, or a mix of both, and could be country specific or regionally based.
    - Independent, third-party certification, in conjunction with independent, accredited laboratories.
    - Could include a voluntary or mandatory labeling requirement to indicate certification.
Key Principles of Effective Legal Limits

Set clear, transparent consequences for non-compliance

- Laws and regulations should clearly dictate the consequences for non-compliance, as well as incentives for compliance
- Provide information and resources to regulated entities to educate them on how to comply with new limits
- Ensure compliance status information is available to stakeholders
- Specify a process for disposing of existing lead paint and related products once entities come into compliance
- Consider application of the same standards to both domestic and export markets to prevent the dumping of lead paint in countries less advanced in their controls
Key Principles of Effective Legal Limits

Include provisions in the legal framework relating to disposal of existing paint

• Specify how lead paint or products impounded for violating legislation and regulation are to be destroyed or disposed of in a safe manner

• Ensure regulated entities, including paint manufacturers and retailers, have information regarding how to destroy or dispose of existing lead paint and related products
Key Principles of Effective Legal Limits

Provide for periodic review to assist in determining the effectiveness of new laws

• Reviews could include
  ▪ Periodic assessments of the paint market
  ▪ Periodic blood lead level assessments
  ▪ Understanding any new applicable science

• Based on reviews, update the laws or regulations (with stakeholder and public input) as needed
Conclusion & Points of Contact

• This tool is not intended to be an exhaustive guide, but rather to serve as a starting point for countries and stakeholders interested in establishing legal limits on lead in paint.

• Questions regarding the content of this module, or specific inquiries regarding establishing legal limits on lead paint, can be directed to Noleadinpaint@unep.org.