

# Module J

## Establishing a Legal Framework to Regulate Lead in Paint



LEAD PAINT ALLIANCE

# 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](mailto:Noleadinpaint@unep.org)