

The logo for the Window & Door Dealers Alliance features a stylized circular emblem composed of overlapping blue and yellow rings. To the left of the emblem, the text "Window & Door Dealers Alliance" is written in a serif font, with "Window & Door" on the top line and "Dealers Alliance" on the bottom line.

**Window & Door  
Dealers Alliance**

**Summary of Comments Presented to the Office of  
Information and Regulatory Affairs (OIRA) By Representatives of the  
Window & Door Dealers Alliance In Opposition to EPA's Lead Renovation,  
Repair & Painting Rules  
Washington, DC – March 17, 2010**

Four representatives of the Window & Door Dealers Alliance (WDDA) met with OIRA officials on March 17, 2010, to present their case for preserving the "opt-out" provisions in EPA's pending Lead Renovation, Repair & Painting Rules (LRRP). WDDA representatives in attendance:

- Jana Goodrich, owner of Seaway Window and president of Seaway Manufacturing, Erie, PA
- David Steele, president of The Window Gallery, Augusta, GA
- Jim Lett, owner of A.B.E. Doors & Windows, Allentown, PA
- David Walker, vice president, WDDA, and vice president, National Glass Association

**Ms. Goodrich summed up the group's position as follows:**

The vast majority of window and door dealers throughout the United are not opposed to the Lead Renovation, Repair and Painting Rules, or to the spirit of the law, but rather to the execution of it in its current form, including amendments.

We support protecting our customers and our employees from dangerous exposure to any toxin. In fact, each of the corporate representatives in attendance has already completed the training and certification process for their businesses, well ahead of the EPA's stated April 22, 2010, deadline. The companies represented here today have invested in certified renovator training for 47 of our employees.

That said, we estimate that fully 98% of the nation's remodelers are not currently trained and certified to comply with the LRRP rule. With limited training providers around the country, and a deadline little more than one month away, the vast majority of our industry will not be legally permitted to work on homes built prior to 1978 (roughly 65% of the total homes in the U.S.). This should be cause for serious concern by all parties.

Given the staggering number of contractors who are uneducated on the Rule, uncertified, or unprepared to follow it, a delay would allow additional time for contractor and consumer education about the law and the hazards of lead dust. With an adequate educational effort, consumers will have a better understanding of the reasons that safe lead practices are necessary during renovations. Armed with this information, the homeowner is more likely to insist upon the use of lead safe practices for their renovation rather than to resist them due to the increased cost.

Our opposition to the LRRP rules is also driven by the drastic and expensive measures prescribed, which have the potential to bring our industry to its knees. The negative financial impact of this rule on contractors and homeowners alike should not be ignored because it is substantial and the results are far reaching, pervading the entire home improvement industry.

This rule will result in skyrocketing costs for businesses that comply which far exceed the EPA's original estimate of \$35 per job. Experience and studies by several industry experts have projected "real world" cost increases of \$65-\$100 or more *per window* for the additional materials and labor required. These per window costs do not include the costs of equipment, certification and training, waste containment, administrative requirements, and liability insurance.

These estimates also do not include an allowance for future liability claims. Even for contractors with adequate liability insurance, tremendous expenditures in time and financial resources may be required to defend against what could be a rash of renovated homeowners' liability claims should any illness ultimately be diagnosed that can be blamed on suspected lead poisoning.

Additionally, the amendment under consideration that would require verification prior to re-occupancy would prove particularly disastrous to our business and the future of the remodeling industry. Coordination with a third party would endlessly complicate scheduling and cause delays in homeowners reoccupying their homes.

As the increased cost of the job under this Rule must be absorbed by someone, the homeowner will have to pay more, offsetting or negating the President's efforts to stimulate the economy, increase energy efficiency of homes, and create jobs.

In summary, we are convinced that this Rule in its current form will have a massive and severely negative impact on reputable home improvement companies, renovators' ability to earn a living, and their ability to provide jobs for others in the trade. We are prepared, have, and will continue to follow the law as prescribed, but in many cases it will be to the detriment of our ability to compete cost effectively against those who do not, cannot, or will not follow the prescribed lead safe practices, despite the threat of stiff penalties for non-compliance.

**Mr. Lett added several important pieces of research:**

Being properly prepared for Lead Safe Work Practices takes a considerable amount of time and expense. We have been busy purchasing the HEPA vacuums, plastic sheeting, disposable suits, disposable footwear, Swiffer wipes, caution tape, orange cones, placards, dust masks, etc., required by the new rules. Between paying to have my employees trained and purchasing the necessary equipment, we have already spent over \$6,000 – and we still have more equipment to purchase.

Since 2008, we have been forced to reduce staffing at our company by 33%. The last thing we need at this time is an additional roadblock to recovery.

We have done extensive surveying of our customer base, and found that 50% of our customers are over 60 years of age and on fixed incomes. We estimate that following the LRRP rule will

add approximately 40% to our labor cost which, in turn, will add hundreds – sometimes thousands – of dollars to a job. Most of our older customers simply cannot afford these added costs. If they are not allowed to opt-out, they will be forced to either forego the project or deal with a non-certified renovator.

Furthermore, only 1% of our customers are between 20-30 years of age, and another 8% are between 30-40 years of age. Only 9% of our customers are in the demographic range most likely to have children under six years of age or have a pregnant woman in the house. Of course, not all of them have children or pregnant women at home, nor are many living in pre-1978 private housing. We suspect that the majority of families under 40 are doing home-improvement projects on their own. They are the ones unwittingly putting their families at great risk of lead exposure because they don't understand the dangers or proper work techniques.

In other words, the people for whom the LRRP rules have been designed are the least likely to be our customers! Why burden 90%+ of our customers with a significant financial hardship when the risk to them is negligible, or non-existent?

Coupled with the above, as I explained in our 3/17 meeting with OMB, my company attempted to do a few trial jobs the way we were taught in EPA approved training. The purpose was so we'd know what we needed to be prepared for when this becomes law. The first job was a tear out of a front entry door system. It sounds simple enough. We planned to build a simple zip wall to contain the dust. When the carpenters arrived at the jobsite they found out that there were cathedral ceilings. Suddenly we realized it was not going to be an easy task. On another job we went to install two windows in a family room. The carpenters thought they would just cover the doorways to the room with plastic to keep the dust contained in the room. Wrong! It was an open wall concept between the kitchen and family room. They needed to build a zip wall containment around the work areas. We finally did do a job that normally would take one carpenter approximately six hours. When it was completed it took two men six hours. I realize that there is a learning curve and we will get faster but there is absolutely no way that any job can be done for a mere \$35. The burden on remodeler contractors is greater than the EPA estimates.

In a fourth case we did a sample replacement job at my son's house on his back patio. We did everything to spec. In this case we laid out the 6 mil poly (plastic), the cones, placards, safety tape, etc. His patio has outdoor carpeting over it. When I stepped out of the kitchen onto the plastic covered patio my feet went out from under me and I almost fell. The plastic was so slippery over the carpet that it was like walking on ice. I can only imagine how slippery this is going to be when my employees are trying to work in the winter months when we have snow on the ground beneath the plastic. What comes to mind is the prospective risk to employees, and errant home-owners. I would hope that you consider keeping the opt out provision so that my employees are not subjected to unnecessary additional risks of slips and falls when 90 percent of my customers do not have pregnant women or children under the age of six living in the home. Moreover, the disposal of the plastic, the hazmat suit, and other materials will multiply tenfold and have an adverse impact on this nation's environment for years to come.

What's more, these above figures and representations don't include the soft costs of the sales person's time explaining to the customer what we need to do, the additional paperwork for the carpenters to fill out and the office staff record keeping. Let's not forget that when a remodeler contractor hands out the RRP booklets they are only good for 60 days prior to beginning the work. If you do a presentation today, explain the lead safe work practices, hand them the booklet and get them to sign and date but the customer doesn't purchase for another month, you already lost 30 days. If your work schedule is six to eight or eight to ten weeks you will need to make sure to give them another booklet and signed no more than 60 days before the work begins. Again, the burden on the remodeler contractor is greater than the EPA estimates. If there were a 120 day period rather than 60 days it would make a lot more sense.

These, among other reasons, are why the opt-out provision was included in the first place, and should be retained in the final LRRP rule.

**Mr. Steele offered the following considerations:**

I support the EPA's effort to protect those citizens who are clearly at risk from Lead poisoning. Without exception, children under the age of six and pregnant women must be protected from exposure to lead.

In Executive Order 12866 Section 1. Statement of Regulatory Philosophy and Principles, President Clinton ordered the following: "In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits...."

The EPA, in my view, has not complied with the requirement: to understand all costs associated with LRRP in general and with the potential removal of the opt-out clause in particular. The cost of labor and material as projected by the EPA is grossly understated. The cost to the industry and to the economy in general will be exponentially higher if the opt-out rule is removed. OIRA should recommend against removal of the opt-out provision even if this were the only omission.

New residential construction has fallen from 1.2 million starts to 309,000 per year. At present remodeling is the only bright spot in the housing industry. In fact, many builders are surviving by doing remodeling. While remodeling businesses remain relatively busy compared to new construction, many of these businesses have reduced staffing 30-50% in response to the collapse of demand. LRRP, especially with opt-out removed, is the last thing we need at this time. In my opinion, LRRP will undermine the President's efforts to decrease unemployment while undermining initiatives to conserve energy and create jobs. Plans to encourage renovation and the much anticipated Home Star Act will only exacerbate the problem.

The rationale for requesting delay in the implementation of RRP is magnified dramatically if opt-out is removed. Currently, EPA has only 135 accredited trainers vs. the 1,000 they believed were needed to certify 236,000 renovators prior to April 22. Unfortunately, only 13,669 certified renovators are available nationwide to handle the millions of renovations performed each year. (Interestingly, the EPA's estimates were projected with opt-out included). Given the fact that the

demands on the system will be dramatically higher if opt-out is removed, there will be wide spread shortages that will increase non-compliance and put more citizens at risk from unsafe practices. Alternatively, a huge percentage of activities that would have occurred may be postponed or dropped altogether. This would be disastrous to the economy and should be sufficient motivation for OIRA to require EPA to retain the opt-out provision.

Furthermore, the EPA has inadvertently created a false impression of low cost for additional labor and material that does not bear up under scrutiny. Expenses to comply with LRRP have been grossly understated. The EPA neglected their responsibility to perform an accurate analysis of the cost of implementation as required by EO 12866. Leah Thayer, in an interview with *Remodeling* magazine estimated that the additional steps required by the rule would add \$8 - \$167 per job. Assuming an average burdened wage of \$40 per hour, with no material cost or soft costs included, it would only take 12 minutes to incur a cost of \$8. One study suggests that it will take 132 minutes to set up signs, display certificates, train workers, establish boundaries, lay and/or erect and tape plastic, set up cones and danger tape, cover and create doors to work areas and cover or move furniture. One-hundred thirty-two minutes translates to \$88 – 10 times the \$8 used by Leah Thayer – and work has not begun and no material has been posted to the job.

In a thoughtful and well reasoned article by Sal Alfano posted on March 16, 2010, *Remodeling* magazine estimates a \$10,000 job would increase by a low of \$1,280 and a high of \$2,180. In the article, Alfano projects a 6.6%-14.6% net increase to the consumer. A serious miscalculation was made and should have been challenged when the EPA wrote: “EPA does not expect the incremental costs associated with this rule to be a determinative factor for consumers” (Federal Register page 21702). Contrary to the expectations that the EPA would involve those most affected, the EPA appears to have relied on association staff for input. Before this regulation is implemented, the EPA should be required to calculate the overall cost and accurately estimate with opt-out included and with opt-out excluded.

OIRA must challenge the EPA to demonstrate that their proposed solution is the best way to maximize net benefits at the lowest cost. For example, EPA could have simply banned the most egregious practices and launched an educational campaign to inform the public how to protect themselves. If cost estimates were realistically calculated, the burden placed on society by LRRP would be far in excess of what EPA has projected. Once opt-out is removed, the burden becomes intolerable.

As a result, consumers will be reluctant to pay extra for work performed under LRRP rules. Some will simply forego work that should be done, or attempt to perform the work themselves. Even worse, many will hire less competent (“black market”) remodelers who will easily undercut the prices of certified renovators. The likelihood that these uncertified operators will follow Lead Safe Work practices is nil.

The unintended consequences will be more, not less, exposure to lead. Additionally, the protective clothing required by LRRP is hazardous to the health of our employees. It will be impossible in the heat and humidity of many regions of the country for workers to work in the Rule’s prescribed clothing without serious repercussions to their health.

If the opt-out clause is eliminated, economic activity will be substantially reduced and our business – and thousands like it – may fail.

**In Closing**

We urge OMB to use its influence with EPA to ensure preservation of the opt-out provision in its final LRRP rule, thereby allowing the vast majority of renovation customers the choice to avoid unnecessary and significant costs that will not protect them from any real danger.

Each of us individually, as well as the Window & Door Dealers Alliance, stand ready to work with OMB, the EPA and the White House to ensure the safety of our customers and our employees, while doing our part to contribute to the recovery economy.

Thank you for the opportunity to meet with you and to present our concerns.

## EPA Lead Paint Renovation Additional Material Requirements

The following is an estimation of the additional materials needed to replace windows in a house that has been determined to have lead based paint using the EPA Lead Paint Renovators requirements. All of these estimations are based upon the concept that a contractor and an assistant can replace six (6) windows (4 front & 2 sides) in a normal day. For the sake of this calculation, we will assume that those six windows cover three (3) rooms, each measuring approximately 11' by 11'. This estimation does not include the additional equipment that would be needed (i.e. respirator, HEPA vacuum, etc.)

### Disposable Materials:

Outside, Front sheet	10' x 55'	
Outside, Side sheets	10' x 25' (x2)	
Inside, Floor sheets	10' x 13' (x3)	
<u>Door covers</u>	<u>7' x 6' (x3)</u>	
<b>Total amount of 6 mil plastic</b>	<b>10' x 162'</b>	<b>\$95.00</b>
<b>Disposable coveralls (4 sets)</b>		<b>\$20.00</b>
<b>Disposable Latex Gloves (4sets)</b>		<b>\$ 1.00</b>
<b>Caution Barrier Tape (20' perimeter)</b>		<b>\$ 1.50</b>
<b>Disposable Tack Pad (Doorway)</b>		<b>\$ 1.50</b>
<b>Duct Tape (1.5 rolls)</b>		<b>\$ 9.00</b>
<b>Painters tape (for under duct tape)</b>		<b>\$ 8.00</b>
<b>Lead Check testers (8 pack)</b>		<b>\$23.00</b>
<b>Cleaning verification wipes</b>		<b>\$10.00</b>
<b>6 Mil Garbage Bags</b>		<b>\$10.00</b>
<b><u>Total Disposable Materials</u></b>		<b><u>\$179.00</u></b>

### Estimated Additional Labor Hours (Labor rate of \$50 per hour)

<b>Exterior set-up (1 hour)</b>	<b>\$ 50.00</b>
<b>Interior set-up (3 hours)</b>	<b>\$150.00</b>
<b>Additional work (1 hour)</b>	<b>\$ 50.00</b>
<b>Exterior tear-down (1/2 hour)</b>	<b>\$ 25.00</b>
<b>Interior tear down (1-1/2 hours)</b>	<b>\$150.00</b>
<b>Cleaning &amp; verification (4 hours)</b>	<b>\$200.00</b>

**Total Additional Hours (12 hours)      \$600.00**

**Total Additional Materials and Time: \$729.00 / 6 windows =**  
**\$121.50 per window\***

*\*Replacement respirator cartridges and HEPA vacuum filters not included.*