

Two Approaches to the EPA Lead Paint Rules

Since April 2010, a group of five industry leaders has been communicating directly with Environmental Protection Agency officials in Washington about how the Renovation, Repair, and Painting (“RRP”) rules apply to the garage door industry. These five include the top officials of DASMA and IDA (John Addington and Chris Long), the legal counsels of these organizations (Naomi Angel and Brian Schoolman), and Tom Wadsworth, DASMA’s communications director.

So far, EPA responses to this group have tended to be conservative but have lacked clarity. Recently, Tom Wadsworth communicated with Marc Edmonds from the National Program Chemicals Division at EPA to try to get greater understanding about what garage door work could be done without using the lead-safe work practices under RRP.

Unfortunately, the EPA’s latest responses still lack clarity and could be interpreted differently. In an effort to provide the industry with helpful direction, two of the group’s members have drafted two approaches that demonstrate how EPA statements could be interpreted differently. For legal reasons, IDA and DASMA both officially urge the industry to follow the most cautious and conservative approach.

A Common Sense Approach	A Legal Approach
Tom Wadsworth	Brian Schoolman
<p>EPA acknowledges that some garage door removals may not disturb enough painted surface to require the installer to follow RRP removal/installation procedures.</p> <p>1. In a statement to our industry on Dec. 1, 2011, EPA official Marc Edmonds noted that the usual approach is, <i>“When you remove a component, such as a door, you have to count the entire surface of the door toward the square footage of the minor repair and maintenance definition.”</i> But he acknowledged that <i>“the exception to this is when you don’t disturb any paint on the door when you remove it.”</i></p> <p>2. Further, in the Frequent Questions database on the EPA website, EPA responded to a question about removing an entry door: <i>“If unbolting and unscrewing a door disturbs paint only on the bolts, screws and/or hinges, but does not otherwise disturb a painted surface on the door, frame, trim or surrounding walls, then the activity likely disturbs less than six square feet of painted surface and would not be subject to the RRP Rule.”</i> (See Question 23002-19751.)</p> <p>Conclusion: Door dealers must use good judgment with each job. Your first priority is to protect your customer and your employee(s) working on that job.</p> <p>When you are on a job that involves lead paint, you are the only one who can make the decision as to whether the removal of <i>that particular garage door</i> will disturb the required area of painted surface (20 sq. ft. of exterior, 6 sq. ft. of interior). Your decision should be based on whether removing it “disturbs paint on the door.”</p> <p>If you feel the situation does not warrant RRP removal procedures, you should be prepared to defend your decision. Taking photos of the door surface may be appropriate. Whatever decision you make, you must still distribute the “Renovate Right” booklet and follow all the record-keeping requirements of the rules.</p>	<p>As you can see from Tom’s “Common Sense” statement, the answers from Mr. Edmonds and EPA, while gracious, have not answered the fundamental question of whether “disturbing,” as that term is used in the definition of “minor repair or maintenance,” applies only to the affecting of paint in the vicinity of actual work performed on a garage door or door section (such as that surface area immediately around the screws, bolts and/or hinges of a panel, or involving trim or molding around a door), or instead means the entire surface area of the panel being removed.</p> <p>I have been advising IDA members that the precise language of the RRP rules states that when work involves removing a painted component, or portions of painted components, the entire surface area removed is the amount of painted surface area disturbed. EPA has also referred to this in its responses to questions on its website, as well as in the exchange with Tom Wadsworth.</p> <p>As such, the most conservative and therefore careful interpretation of the rule is that if you disturb any paint at all on a lead-based painted door, and then you remove one or more panels of that door, you must aggregate the surface area of those panels being removed, and if that total surface area exceeds the minimum amounts in the “minor repair or maintenance” definition, then the lead-safe work practices must be followed. This is the safest approach, even if it is more expensive and time-consuming.</p> <p>That said, and as Tom has stated, the most important thing members can do is use good judgment and your common sense in evaluating whether the lead-safe practices under RRP are required for a particular job. For all projects involving RRP-defined “target housing,” you need to distribute the “Renovate Right” pamphlet, and follow the record-keeping requirements of the rules. Ultimately, the decision of what is best for you, your employees, and your customers – as well as what the law now requires – rests in your hands.</p>