

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I

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IN THE MATTER OF: )  
)  
)  
MICHAEL PERUGINI )  
)  
)  
Respondent. )  
)  
Proceeding under Section 16(a) of the )  
of the Toxic Substances Control Act, )  
42 U.S.C. § 2615(a). )  
\_\_\_\_\_)

COMPLAINT AND NOTICE  
OF OPPORTUNITY FOR  
HEARING  
Docket Number  
TSCA-01-2009-0105

**ADMINISTRATIVE COMPLAINT  
AND NOTICE OF OPPORTUNITY FOR A HEARING**

**I. STATEMENT OF AUTHORITY**

1. This Administrative Complaint and Notice of Opportunity for a Hearing (“Complaint”) is issued pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22. The Complainant is the Legal Enforcement Manager, United States Environmental Protection Agency, Region 1.

**II. NATURE OF THE ACTION**

2. The Respondent in this action, Michael Perugini, is hereby notified of the Complainant’s determination that he has violated TSCA Section 409, 15 U.S.C. § 2689, the

Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42 U.S.C. §§ 4851 *et seq.*, and the federal regulations promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart F (“Disclosure Rule”). Complainant seeks civil penalties pursuant to TSCA Section 16, 15 U.S.C. § 2615, which provides that violations of TSCA Section 409, 15 U.S.C. § 2689, are subject to the assessment of civil and/or criminal penalties by Complainant. In support of its Complaint, Complainant alleges the following:

### **III. STATUTORY AND REGULATORY BACKGROUND**

3. In 1992, Congress passed the Act in response to findings that low-level lead poisoning is widespread among American children; that pre-1980 American housing stock contains more than three million tons of lead in the form of lead-based paint; and that the ingestion of lead from deteriorated or abraded lead-based paint is the most common cause of lead poisoning in children. One of the stated purposes of the Act is to ensure that the existence of lead-based paint hazards is taken into account in the rental of homes and apartments.

4. In 1996, the United States Environmental Protection Agency (“EPA”) promulgated regulations to implement the Act. These regulations are set forth at 40 C.F.R. Part 745, Subpart F.

5. Pursuant to TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the housing stock addressed by the Act is termed “target housing.” “Target housing” is defined as any housing constructed prior to 1978, except housing for the elderly or disabled, or any 0-bedroom dwelling.

6. The implementing regulations set forth at 40 C.F.R. Part 745, Subpart F, require lessors of target housing to, among other things:

(a) provide to lessees a lead hazard information pamphlet;

(b) disclose to lessees, prior to their becoming obligated under any contract to lease or purchase target housing, the presence of any known lead-based paint and/or lead-based paint hazards;

(c) provide to lessees records or reports available to the lessor pertaining to lead-based paint or lead-based paint hazards in the housing; and,

(d) ensure that the contract to lease or attachment to the lease includes the following items:

(i) a Lead Warning Statement;

(ii) a statement by the lessor disclosing the presence of known lead-based paint or lead-based paint hazards, or indicating no knowledge thereof; and

(iii) a list of any records of reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards.

7. Pursuant to Section 1018(b)(5) of the Act, 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(e), failure to comply with the Subpart F disclosure requirements is a violation of TSCA Section 409, 15 U.S.C. § 2689.

8. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of TSCA Section 409, 15 U.S.C. § 2689, shall be liable to the United States for a civil penalty.

9. Section 1018(b)(5) of the Act and 40 C.F.R. § 745.118(f) provide that, for purposes of enforcing the Disclosure Rule under TSCA, the penalty for each violation occurring after July 28, 1997, shall be no more than \$11,000.

#### **IV. GENERAL ALLEGATIONS**

10. Respondent Michael Perugini resides at 84 Harrison Drive in Wolcott, Connecticut. Michael Perugini owns and offers for lease residential real estate.

11. At the time of the violations alleged in this Complaint, Michael Perugini owned and offered for lease five apartments at the addresses listed below:

309 Park Street, 3 <sup>rd</sup> Floor	Bristol, CT
353 Park Street, 1 <sup>st</sup> Floor	Bristol, CT
372 Park Street, Apt. 8	Bristol, CT
41 Stearns Street, Apt. 3	Bristol, CT
21 Wolcott Street, Apt. 23N	Bristol, CT

12. The apartments referred to in Paragraph 11 above, are and were, at the time of the violations alleged in this Complaint, “target housing,” as defined in 40 C.F.R. § 745.103, because they were constructed prior to 1978. The apartments do not qualify for exemptions to the provisions of the Act or the Disclosure Rule.

13. Respondent Michael Perugini is, thus, a “lessor” as defined in 40 C.F.R. § 745.103.

14. On May 5, 2008, authorized EPA representatives conducted an inspection at Respondent Michael Perugini’s residence at 84 Harrison Drive in Wolcott, Connecticut to review lease and/or sales records for pre-1978 residential units to determine compliance with the Disclosure Rule.

## **V. VIOLATIONS**

15. Based on a review of information obtained from Respondent, EPA has identified the following violations of the Act and the Disclosure Rule:

### **Count I - Failure to provide lessees with an EPA-approved lead hazard information pamphlet.**

16. Paragraphs 1 through 15 above are incorporated by reference as if fully set forth herein.

17. Pursuant to 40 C.F.R. § 745.107(a)(1), a lessor is required to provide a lessee, before the lessee is obligated under any contract to lease target housing, with an EPA-approved lead hazard information pamphlet entitled *Protect Your Family From Lead in Your Home* or an equivalent pamphlet that has been approved for use in particular states by EPA.

18. Respondent, Michael Perugini, failed to provide the following tenants with an EPA-approved lead hazard information pamphlet before the tenants became obligated under a contract to lease target housing:

a. Sonya Moreno and Leonora Jorge, who became obligated to rent 309 Park Street, 3<sup>rd</sup> Floor, Bristol, CT on or about February 29, 2008.

b. Linda Williams and Aric Belanger, who became obligated to rent 353 Park Street, 1st Floor, Bristol, CT on or about November 13, 2006.

c. Shontell Charest, who became obligated to rent 372 Park Street, Apt. 8, Bristol, CT on or about April 12, 2008.

d. Crystal Marcarelli, who became obligated to rent 41 Stearns Street, Apt. 3, Bristol, CT on or about November 1, 2007.

e. Giancarlo Benites, who became obligated to rent 21 Wolcott Street, Apt. 23N, Bristol, CT on or about September 7, 2007.

19. Respondent Michael Perugini's failure to provide the lessees of target housing listed above with an EPA-approved lead hazard information pamphlet prior to the lessees becoming obligated under a contract to lease target housing constitutes five violations of 40 C.F.R. § 745.107(a)(1), and TSCA Section 409, 15 U.S.C. § 2689.

**Count II - Failure to include as an attachment to, or within the contract to lease target housing, the Lead Warning Statement.**

20. Paragraphs 1 through 19 above are incorporated by reference as if fully set forth herein.

21. Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing must include as an attachment to, or within the contract, the Lead Warning Statement.

22. Respondent, Michael Perugini, failed to include the Lead Warning Statement as an attachment or within the contract to lease target housing, with the following tenants:

a. Sonya Moreno and Leonora Jorge, who became obligated to rent 309 Park Street, 3<sup>rd</sup> Floor, Bristol, CT on or about February 29, 2008.

b. Linda Williams and Aric Belanger, who became obligated to rent 353 Park Street, 1st Floor, Bristol, CT on or about November 13, 2006.

c. Shontell Charest, who became obligated to rent 372 Park Street, Apt. 8, Bristol, CT on or about April 12, 2008.

d. Crystal Marcarelli, who became obligated to rent 41 Stearns Street, Apt. 3, Bristol, CT on or about November 1, 2007.

e. Giancarlo Benites, who became obligated to rent 21 Wolcott Street, Apt. 23N, Bristol, CT on or about September 7, 2007.

23. Respondent Michael Perugini's failure to include the Lead Warning Statement as an attachment to, or within the contracts to lease target housing listed above constitutes five violations of 40 C.F.R. § 745.113(b)(1), and TSCA Section 409, 15 U.S.C. § 2689.

**Count III - Failure to include in the lease, or as an attachment thereto, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards, or lack of knowledge thereof.**

24. Paragraphs 1 through 23 above are incorporated by reference as if fully set forth herein.

25. Pursuant to 40 C.F.R. § 745.113(b)(2), a contract to lease target housing must include as an attachment to or within the lease contract a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

26. Respondent, Michael Perugini, failed to include as an attachment, or within the contract to lease target housing, a statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, with the following tenants:

a. Sonya Moreno and Leonora Jorge, who became obligated to rent 309 Park Street, 3<sup>rd</sup> Floor, Bristol, CT on or about February 29, 2008.

b. Linda Williams and Aric Belanger, who became obligated to rent 353 Park Street, 1st Floor, Bristol, CT on or about November 13, 2006.

c. Shontell Charest, who became obligated to rent 372 Park Street, Apt. 8, Bristol, CT on or about April 12, 2008.

d. Crystal Marcarelli, who became obligated to rent 41 Stearns Street, Apt. 3, Bristol, CT on or about November 1, 2007.

e. Giancarlo Benites, who became obligated to rent 21 Wolcott Street, Apt. 23N, Bristol, CT on or about September 7, 2007.

27. Respondent Michael Perugini's failure to include, as an attachment to or within the lease contracts listed above, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in target housing, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards in target housing constitutes five violations of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409, 15 U.S.C. § 2689.

**Count IV - Failure to include in the lease, or as an attachment thereto, a list of any records that pertain to lead-based paint and/or lead-based paint hazards or an indication that no such records exist.**

28. Paragraphs 1 through 27 above are incorporated by reference as if fully set forth herein.

29. Pursuant to 40 C.F.R. § 745.113(b)(3), a contract to lease target housing must include as an attachment to or within the lease itself, a list of any records or reports that pertain to lead-based paint and/or lead-based paint hazards in the target housing, or an indication that no such records exist.

30. Respondent, Michael Perugini, failed to include as an attachment, or within the contract to lease target housing, a list of any records or reports that pertain to lead-based paint and/or lead-based paint hazards in the target housing, or an indication that no such records exist, with the following tenants:

a. Sonya Moreno and Leonora Jorge, who became obligated to rent 309 Park Street, 3<sup>rd</sup> Floor, Bristol, CT on or about February 29, 2008.

b. Linda Williams and Aric Belanger, who became obligated to rent 353 Park Street, 1st Floor, Bristol, CT on or about November 13, 2006.



c. Shontell Charest, who became obligated to rent 372 Park Street, Apt. 8, Bristol, CT on or about April 12, 2008.

d. Crystal Marcarelli, who became obligated to rent 41 Stearns Street, Apt. 3, Bristol, CT on or about November 1, 2007.

e. Giancarlo Benites, who became obligated to rent 21 Wolcott Street, Apt. 23N, Bristol, CT on or about September 7, 2007.

31. Respondent Michael Perugini's failure to include, as an attachment to or within the lease contracts listed above, a list of any records or reports that pertain to lead-based paint and/or lead-based paint hazards in target housing, or to indicate that no such records exist, constitutes five violations of 40 C.F.R. § 745.113(b)(3) and TSCA Section 409, 15 U.S.C. § 2689.

## **VI. PROPOSED PENALTY**

32. Based upon the violations described in this Complaint, a civil penalty of \$52,280 is hereby proposed to be assessed against Respondent. The proposed civil penalty has been determined in accordance with TSCA Section 16, the provisions of 40 C.F.R. § 745.118(f), as well as the Debt Collection Improvement Act of 1996<sup>1</sup> and its implementing regulations at 40 C.F.R. Part 19. Under Section 16 of TSCA, Complainant must consider the nature, circumstances, extent and gravity of the violations and, with respect to the violator, its ability to pay, the effect of the proposed penalty on the ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. To calculate the civil penalty proposed herein, Complainant has taken into account the particular facts and circumstances of this case with specific consideration of EPA's December 2007 *Section 1018 Disclosure Rule Enforcement Response and Penalty Policy* (the "ERPP"), a copy of

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1. Pub. L. No. 104-134, 110 Stat. 1321 (31 U.S.C. § 3701 note).

which is enclosed with this Complaint. The ERPP provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases. The document marked as Attachment 1 to this Complaint provides a more detailed explanation of the penalty proposed herein. The proposed penalty was developed based upon the best information available to Complainant but may be adjusted if Respondent establishes a *bona fide* claim of ability to pay or other issues relevant to determining an appropriate penalty.

33. The specific penalties proposed for each of the violations alleged in this Complaint against Respondent are:

Provision Violated	No. of Violations	Penalty Amount
40 C.F.R. § 745.107(a)(1)	Five	\$21,320
40 C.F.R. § 745.113(b)(1)	Five	\$16,520
40 C.F.R. § 745.113(b)(2)	Five	\$10,820
40 C.F.R. § 745.113(b)(3)	Five	\$3,620
<b>Total Penalty Amount</b>		<b>\$52,280</b>

34. The total proposed penalty for the 20 violations alleged in this Complaint is \$52,280.

35. Respondent shall pay the civil penalty with a cashier's or certified check, payable to the Treasurer, United States of America. Respondent should note on this check the docket number of this Complaint (EPA Docket No. TSCA 01-2009-0105). The check shall be forwarded to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

In addition, at the time of payment, notice of payment of the civil penalty and copies of the check should be forwarded to:

Ms. Judy Lao-Ruiz  
Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency-Region 1  
One Congress Street, Suite 1100 (HBS)  
Boston, Massachusetts 02114-2023

and

Sarah Meeks  
Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100 (SES)  
Boston, Massachusetts 02114-2023

If payment is made within 30 days of receipt of the Complaint, Respondent need not file an Answer. If Respondent agrees to pay the penalty but needs additional time, Respondent may file a statement to that effect with the Regional Hearing Clerk within 30 days of receipt of the Complaint. In that event, Respondent need not file an Answer and will be allowed 60 days from receipt of the Complaint to pay the penalty. See 40 C.F.R. § 22.18(a).

36. Neither assessment nor payment of an administrative penalty shall affect Respondent's continuing obligation to comply with all applicable requirements of federal law.

#### **VII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER**

37. As provided by Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material

fact alleged in this Complaint, or on the appropriateness of the proposed penalty. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22 (a copy of which is enclosed).

**In the event that Respondent intends to request a hearing, Respondent must file a written Answer to this Complaint within 30 days of receipt of this Complaint.** Respondent shall send the Answer to the Regional Hearing Clerk at the following address:

Ms. Judy Lao-Ruiz  
Acting Regional Hearing Clerk  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100 (HBS)  
Boston, Massachusetts 02114-2023

Respondent shall serve copies of the Answer or other documents to counsel at the following address:

Sarah Meeks  
Enforcement Counsel  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1100 (SES)  
Boston, Massachusetts 02114-2023

In the Answer, Respondent may contest any material fact contained in the Complaint. The Answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (1) the circumstances or arguments alleged to constitute the grounds of defense; (2) the facts Respondent intends to place at issue; and, (3) whether a hearing is requested. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Any failure of Respondent to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation.

See 40 C.F.R. § 22.15 for the required contents of an Answer.


## **VIII. DEFAULT ORDER**

38. If Respondent fails to file a timely Answer to the Complaint, Respondent may be found to be in default, pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations under Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A). Pursuant to 40 C.F.R. § 22.17(d), the penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final.

## **IX. SETTLEMENT CONFERENCE**

39. Whether or not a hearing is requested upon filing an Answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide additional information that may be relevant to the disposition of this matter. Any resulting settlement shall be made final by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region I.

40. Please note that a request for an informal settlement conference does not extend the period within which a written Answer must be submitted in order to avoid default. To explore the possibility of settlement in this matter, Respondent should contact Sarah Meeks, Enforcement Counsel, Office of Environmental Stewardship, EPA Region I, at the address cited above, (617) 918-1438, or meeks.sarah@epa.gov. Ms. Meeks has been designated to represent Complainant and receive service in this action.

  
\_\_\_\_\_  
Joel Blumstein

9/22/09  
Date

Legal Enforcement Manager  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region 1  
One Congress Street, Suite 1100 (SEE)  
Boston, MA 02114-2023

**EXPLANATION OF PENALTY CALCULATION**

**COUNT I: FAILURE TO PROVIDE LESSEES WITH AN EPA-APPROVED LEAD HAZARD INFORMATION PAMPHLET**

**Provision Violated:** 40 C.F.R. § 745.107(a)(1) requires lessors to provide lessees an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled *Protect Your Family From Lead in Your Home*, or an equivalent pamphlet that has been approved for use by EPA.

**Circumstance Level:** Failure to provide a lessee an EPA-approved lead hazard information pamphlet pursuant to 40 C.F.R. § 745.107(a)(1), results in a *high probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule Enforcement Response and Penalty Policy ("ERPP"), a copy of which is enclosed, a violation of 40 C.F.R. § 745.107(a)(1) is a *Level 1* violation.

**Extent of Harm:** The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Lease Address	Tenant Name	Penalty Category	Penalty Amount
		With children <6: Major	\$11,000
		With children >6 <18: Significant	\$7,740
		With no children: Minor	\$2,580
309 Park St, 3 <sup>rd</sup> fl	S. Moreno & L. Jorge	No children-Minor	\$2,580
353 Park St, 1 <sup>st</sup> fl	L. Williams & A. Belanger	No children-Minor	\$2,580
372 Park St #8	S. Charest	Child (5 yrs)-Major	\$11,000
41 Stearns St #3	C. Marcarelli	No Children-Minor	\$2,580
21 Wolcott St #23N	G. Benites	No Children-Minor	\$2,580
		<b>Total</b>	\$21,320

**COUNT II: FAILURE TO INCLUDE AS AN ATTACHMENT, OR WITHIN A CONTRACT TO LEASE TARGET HOUSING, THE LEAD WARNING STATEMENT**

**Provision Violated:** 40 C.F.R. § 745.113(b)(1) requires that each contract to lease target housing include as an attachment, or within the contract, the Lead Warning Statement.

**Circumstance Level:** Failure to include the Lead Warning Statement in the language of the lease contract, or an attachment thereto, pursuant to 40 C.F.R. § 745.113(b)(1), results in a *high probability* of impairing a lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and to weigh this information with regard to leasing the target housing in question. As a result, under the Disclosure Rule ERPP, a violation of 40 C.F.R. § 745.113(b)(1) is a *Level 2* violation.

**Extent of Harm:** The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Lease Address	Tenant Name	Penalty Category	Penalty Amount
		With children <6: Major	\$10,320
		With children >6 <18: Significant	\$6,450
		With no children: Minor	\$1,550
309 Park St, 3 <sup>rd</sup> fl	S. Moreno & L. Jorge	No children-Minor	\$1,550
353 Park St, 1 <sup>st</sup> fl	L. Williams & A. Belanger	No children-Minor	\$1,550
372 Park St #8	S. Charest	Child (5 yrs)-Major	\$6,450
41 Stearns St #3	C. Marcarelli	No Children-Minor	\$1,550
21 Wolcott St #23N	G. Benites	No Children-Minor	\$1,550
		<b>Total</b>	\$16,520



**COUNT III: FAILURE TO INCLUDE IN A LEASE, OR AS AN ATTACHMENT  
THERETO, A STATEMENT BY THE LESSOR DISCLOSING THE PRESENCE OF  
KNOWN LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS, OR LACK OF  
KNOWLEDGE THEREOF**

**Provision Violated:** 40 C.F.R. § 745.113(b)(2) requires that each contract to lease target housing include, as an attachment or within the lease contract, a statement by a lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

**Circumstance Level:** Failing to include the statement of knowledge of lead-based paint and/or lead-based paint hazards as an attachment, or within the contract to lease target housing, results in a *medium probability* of impairing the lessee's ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information with regard to leasing the target housing in question. Because the intent of this provision is to put potential lessees on notice of specific information relating to the presence of lead in the housing, violation of this provision deprives lessees of their right to make decisions based upon risk. As a result, under the Disclosure Rule ERPP, a violation of 40 C.F.R. § 745.113(b)(2) is a *Level 3* violation.

**Extent of Harm:** The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Lease Address	Tenant Name	Penalty Category	Penalty Amount
		With children <6: Major	\$7,740
		With children >6 <18: Significant	\$5,160
		With no children: Minor	\$770
309 Park St, 3 <sup>rd</sup> fl	S. Moreno & L. Jorge	No children-Minor	\$770
353 Park St, 1 <sup>st</sup> fl	L. Williams & A. Belanger	No children-Minor	\$770
372 Park St #8	S. Charest	Child (5 yrs)-Major	\$7,740
41 Stearns St #3	C. Marcarelli	No Children-Minor	\$770
21 Wolcott St #23N	G. Benites	No Children-Minor	\$770
		<b>Total</b>	\$10,820

**COUNT IV: FAILURE TO INCLUDE IN A LEASE, OR AS AN ATTACHMENT  
THERE TO, A LIST OF ANY RECORDS THAT PERTAIN TO LEAD HAZARDS OR  
TO INDICATE THAT NO SUCH LIST EXISTS.**

**Provision Violated:** 40 C.F.R. § 745.113(b)(3) requires that each contract to lease target housing include, as an attachment or within the lease contract, a list of any records or reports available to the Lessor that pertain to lead hazard information or to indicate that no such records exist.

**Circumstance Level:** Failing to include a list of any records pertaining to lead hazards or to indicate that no such records exist, as an attachment, or within the contract to lease target housing, results in a *low probability* of impairing the lessee’s ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to weigh this information with regard to leasing the target housing in question. Because the intent of this provision is to put potential lessees on notice of specific information relating to the presence of lead in the housing, violation of this provision deprives lessees of their right to make decisions based upon risk. As a result, under the Disclosure Rule ERPP, a violation of 40 C.F.R. § 745.113(b)(3) is a *Level 5* violation.

**Extent of Harm:** The Disclosure Rule ERPP takes into consideration the risk factors for exposure to lead-based paint and lead-based paint hazards. The potential for harm is measured by the age of children living in the target housing and the presence of pregnant women living in the target housing. Children under the age of six are most likely to be adversely affected by the presence of lead-based paint and lead-based paint hazards, because of how they play and ingest materials from their environment, and because of their vulnerability due to their physical development. The harmful effects that lead can have on children under the age of six warrants a *major* extent factor. Children between the ages of six and eighteen may be adversely affected by the presence of lead-based paint and lead-based paint hazards because of their vulnerability due to their physical development. The harmful effects that lead can have on children between the ages of six and eighteen warrant a *significant* extent factor. The absence of children or pregnant women warrants a *minor* extent factor.

Lease Address	Tenant Name	Penalty Category	Penalty Amount
		With children <6: Major	\$2,580
		With children >6 <18: Significant	\$1,680
		With no children: Minor	\$260
309 Park St, 3 <sup>rd</sup> fl	S. Moreno & L. Jorge	No children-Minor	\$260
353 Park St, 1 <sup>st</sup> fl	L. Williams & A. Belanger	No children-Minor	\$260
372 Park St #8	S. Charest	Child (5 yrs)-Major	\$2,580
41 Stearns St #3	C. Marcarelli	No Children-Minor	\$260
21 Wolcott St #23N	G. Benites	No Children-Minor	\$260
	<b>Total</b>		\$3,620