

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

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<b>IN THE MATTER OF:</b>	)	
	)	
Build-It Bros., L.L.C.	)	
38 Mussey Road	)	EPA Docket No.
Scarborough, ME 04074	)	TSCA-01-2019-0055
	)	
Respondent	)	
	)	
Proceeding under Section 16(a)	)	
of the Toxic Substances Control	)	
Act, 15 U.S.C. § 2615(a)	)	
_____	)	

**SUPPLEMENTAL ORDER TO SHOW CAUSE**

On or about July 14, 2020, Complainant, the United States Environmental Protection Agency, Region 1, submitted a Motion for Default Order and supporting documents, including a Memorandum in Support of Motion for Default Order and the EPA guidelines for assessing penalties under TSCA entitled *Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule* (“ERPP”). The Motion requests that Respondent Build-It Bros., L.L.C. be found in default for its failure to submit an answer in connection with the above-referenced matter.

Complainant’s Memorandum in Support of Motion for Default Order requests, *inter alia*, that a penalty be assessed against Respondent for its alleged failure to comply with the requirements found at 40 C.F.R. §§ 745.84(a)(1) and (a)(2) (i.e., Count II of the complaint). In particular, Complainant states that Respondent failed to provide lead hazard information to a target housing unit owner in the form of an EPA pamphlet or EPA-approved pamphlet, and

failed to obtain a written acknowledgement of receipt or a certificate of mailing at least seven days prior to the renovation.

On September 24, 2020, I issued a Show Cause Order to Complainant. The Order asked for a more detailed explanation of the methodology used to calculate the proposed penalty for Respondent's failure to comply with 40 C.F.R. §§ 745.84(a)(1) and (a)(2). On October 7, 2020, Complainant submitted a Response to Order to Show Cause. The Response gave a detailed explanation of the method and rationale used to calculate the proposed Count II penalty. In part, the Response stated that the base penalty amount for this Level 1b, Minor violation, \$2,580, was drawn from the applicable Penalty Matrix in the ERPP found at Appendix B on page B-1.

The Matrix found at page B-1 of the ERPP states that it applies to violations that occurred on or before January 12, 2009. Respondent's alleged violation occurred in January and February of 2019. Accordingly, the Penalty Matrix for a violation that occurred after January 12, 2009, which is found on page B-2 of the ERPP, would appear to be applicable to the calculation of an initial base penalty for a violation of 40 C.F.R. §§ 745.84(a)(1) and (a)(2) that occurred in 2019. The Penalty Matrix amount for a Level 1b, Minor violation of 40 C.F.R. §§ 745.84(a)(1) and (a)(2) that occurred after January 12, 2009 is listed as \$2,840.

Complainant is hereby ordered to show good cause as to why a \$2,580 base amount penalty, which is found in the Matrix for a Level 1b, Minor violation that occurred on or before January 12, 2009, should be used to calculate the penalty for a 40 C.F.R. §§ 745.84(a)(1) and 745.84(a)(1) violation rather than the base penalty amount found in the Matrix that applies to a Level 1b, Minor violation that occurred after January 12, 2009. See ERPP at pages B-1 and B-2.

**SO ORDERED** this 14<sup>th</sup> day of October 2020:

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LeAnn Jensen  
Regional Judicial Officer/Presiding Officer  
U.S. EPA, Region 1