

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Tris(1,3-dichloro-2-propyl) Phosphate ("TDCPP") in Children's Play Tents

October 6, 2014

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

#### Description of Violation:

- Violators: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least October 28, 2012, and are continuing to this day.
- Provision of Proposition 65: This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is tris(1,3-dichloro-2-propyl) phosphate ("TDCPP"). Exposures to TDCPP occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing this violation is children's play tents. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to TDCPP. Installation and use of the products identified in this Notice results in human exposures to TDCPP. The products contain TDCPP, which have been treated with TDCPP as a flame retardant. The routes of exposure for the violations include inhalation, ingestion, and/or dermal absorption by consumers (including children). Inhalation occurs when TDCPP is released from the products into the ambient environment. Ingestion and dermal absorption occur when TDCPP from the products accumulates in ambient particles (e.g., dust) that are subsequently touched by consumers (including children) and brought into contact with the mouth, or when exposed fabric is touched directly and brought into contact with the mouth. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards of TDCPP.

**Resolution of Noticed Claims:**

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the TDCPP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any alleged violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Notice to CEH through its counsel Joseph Mann at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, [jmann@lexlawgroup.com](mailto:jmann@lexlawgroup.com).

**EXHIBIT 1**  
**October 6, 2014 Notice of Violation**  
**Tris(1,3-dichloro-2-propyl) Phosphate in Children's Play Tents**

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	SKU or Further Description
<p><b>Battat Incorporated</b>  1560 Military Turnpike  Prattsburgh, NY 12901</p> <p><b>Maison Joseph Battat Ltd.</b>  8430 Darnley Road  Montreal, Quebec H4T 1M4  Canada</p>	<p>B. TeePee Tent  in Raspberry</p>	<p>Item No. BX1286  SKU No.  0-62243-25952-2  Target Item No.  14723198</p>
<p><b>Pacific Play Tents, Inc.</b>  2801 E. 12<sup>th</sup> Street  Los Angeles, CA 90023</p>	<p>Lil' Nursery Tent</p>	<p>Item No. 20000  SKU No.  7-85319-20000-5  Target Item No.  736417</p>
<p><b>Target Corporation</b>  1000 Nicollet Mall  Minneapolis, MN 55403</p>	<p>Lil' Nursery Tent</p>	<p>Item No. 20000  SKU No.  7-85319-20000-5  Target Item No.  736417</p>
	<p>B. TeePee Tent  in Raspberry</p>	<p>Item No. BX1286  SKU No.  0-62243-25952-2  Target Item No.  14723198</p>

**CERTIFICATE OF MERIT**  
**Health & Safety Code § 25249.7(d)**

I, Joseph Mann, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

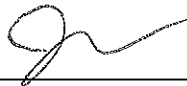
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code § 25249.7(h)(2), i.e. (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

October 6, 2014



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Joseph Mann  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is [cfisher@lexlawgroup.com](mailto:cfisher@lexlawgroup.com).

On October 6, 2014, I served true copies of the following documents:

**NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**CERTIFICATE OF MERIT;** and

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an asterisk).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

***Please see attached service list.***

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 2:35 P.m. on October 6, 2014:

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Dije Ndreu, Deputy District Attorney  
Monterey County  
230 Church Street, Bldg. 2  
Salinas, CA 93901  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

Yeng Dang  
Supervising Deputy District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
[epu@da.sccgov.org](mailto:epu@da.sccgov.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Drive, Rm. 212J  
Santa Rosa, CA 95403  
[jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org)

Phillip J. Cline, District Attorney  
Tulare County  
221 S. Mooney Avenue, Rm. 224  
Visalia, CA 93291  
[Prop65@co.tulare.ca.us](mailto:Prop65@co.tulare.ca.us)

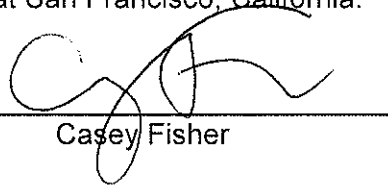
Paul E. Zellerbach, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

Gregory D. Totten, District Attorney Ventura  
County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 6, 2014, at San Francisco, California.

Signed: \_\_\_\_\_



Casey Fisher

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Rm. 900  
Oakland, CA 94612

District Attorney of Alpine County  
P.O. Box 248  
Markleeville, CA 96120

District Attorney of Amador County  
708 Court Street, Ste. 202  
Jackson, CA 95642

District Attorney of Butte County  
Administration Building  
25 County Center Drive  
Oroville, CA 95965

District Attorney of Calaveras  
County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney of Colusa County  
547 Market Street, Ste. 102  
Colusa, CA 95932

District Attorney of Del Norte County  
450 H Street, Ste. 171  
Crescent City, CA 95531

District Attorney of El Dorado  
County  
515 Main Street  
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District Attorney of Fresno County  
2220 Tulare Street, Ste. 1000  
Fresno, CA 93721

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P.O. Box 430  
Willows, CA 95988

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825 5th Street  
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939 Main Street, Ste. 102  
El Centro, CA 92243

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Independence, CA 93526

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Bakersfield, CA 93301

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Hanford, CA 93230

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255 N. Forbes Street  
Lakeport, CA 95453

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220 S. Lassen Street, Ste. 8  
Susanville, CA 96130

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County  
210 W. Temple Street, Ste. 1800  
Los Angeles, CA 90012-3210

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209 West Yosemite Avenue  
Madera, CA 93637

District Attorney of Marin County  
3501 Civic Center Drive, Rm. 130  
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Mariposa, CA 95338

District Attorney of Mendocino  
County  
P.O. Box 1000  
Ukiah, CA 95482

District Attorney of Merced County  
2222 "M" Street  
Merced, CA 95340

District Attorney of Modoc County  
204 S. Court Street, Rm. 202  
Alturas, CA 96101-4020

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93546

District Attorney of Nevada County  
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Nevada City, CA 95959

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County  
401 Civic Center Drive West  
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District Attorney of Placer County  
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240  
Roseville, CA 95678

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Sacramento, CA 95814

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San Bernardino, CA 92415

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San Diego, CA 92101

District Attorney of San  
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San Francisco, CA 94103

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County  
P.O. Box 990  
Stockton, CA 95202

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Obispo County  
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District Attorney of Santa Cruz  
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Santa Cruz, CA 95060

Los Angeles City Attorney's Office  
City Hall East  
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Los Angeles, CA 90012

District Attorney of Santa Barbara  
County  
Attn: Jerry Lule-Jian  
312-D E. Cook Street  
Santa Maria, CA 93454

San Diego City Attorney's Office  
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San Diego, CA 92101

District Attorney of Shasta County  
1355 West Street  
Redding, CA 96001

San Francisco City Attorney's  
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District Attorney of Sierra County  
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100 Courthouse Sq., 2<sup>nd</sup> Fl.  
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San Jose City Attorney's Office  
200 East Santa Clara Street  
San Jose, CA 95113

District Attorney of Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

California Attorney General's Office  
Attention: Proposition 65  
Coordinator and Robert Thomas  
1515 Clay Street, Ste. 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

District Attorney of Solano County  
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Fairfield, CA 94533

Joseph Battat, President \*  
Battat Incorporated  
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Prattsburgh, NY 12901

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Modesto, CA 95354

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Canada

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District Attorney of Tehama County  
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Canada

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Weaverville, CA 96093

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Los Angeles, CA 90023

District Attorney of Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney of Yolo County  
301 Second Street  
Woodland, CA 95695

Brian C. Cornell, CEO \*  
Target Corporation  
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Minneapolis, MN 55403

District Attorney of Yuba County  
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