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9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN DIEGO
12
13

14 **PEOPLE OF THE STATE OF**
15 **CALIFORNIA,**

16 Plaintiff,

17 v.

18 **WAL-MART STORES, INC.,**
19

20 Defendant.
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Case No.:

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES AND
OTHER EQUITABLE RELIEF**

(Health & Saf. Code, Div. 20, Chapters 6.5, 6.7
and 6.95; Bus. & Prof. Code, § 17200 et seq.)

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Plaintiff, PEOPLE OF THE STATE OF CALIFORNIA (“People”), alleges:

PLAINTIFF

1. The People bring this action by and through Edmund G. Brown Jr., Attorney General of the State of California (“Attorney General”) and on relation of the California Department of Toxic Substances Control; and by and through Michael L. Ramsey, District Attorney of Butte County; Vern Pierson, District Attorney of El Dorado County; Ronald L. Calhoun, District Attorney of Kings County; Jon E. Hopkins, District Attorney of Lake County; Steve Cooley, District Attorney of Los Angeles County; Michael R. Keitz, District Attorney of Madera County; Meredith J. Lintott, District Attorney of Mendocino County; Larry D. Morse II, District Attorney of Merced County; Dean D. Flippo, District Attorney of Monterey County; Tony Rackauckas, District Attorney of Orange County; Rod Pacheco, District Attorney of Riverside County; Jan Scully, District Attorney of Sacramento County; Michael A. Ramos, District Attorney of San Bernardino County; Bonnie M. Dumanis, District Attorney of San Diego County; James P. Willett, District Attorney of San Joaquin County; David W. Paulson, District Attorney of Solano County; Carl Adams, District Attorney of Sutter County; Birgit Fladager, District Attorney of Stanislaus County; and Donald I. Segerstrom, Jr., District Attorney of Tuolumne County (collectively “Local Prosecutors”).

2. Pursuant to California Health and Safety Code section 25145.4, the Attorney General may bring a civil action in the name of the People of the State of California to enjoin any violation of Chapter 6.5 of Division 20 of the Health and Safety Code (hereinafter “Chapter 6.5”) and to seek civil penalties for violations of the provisions of Chapter 6.5.

3. Pursuant to Health and Safety Code section 25182, the Local Prosecutors at the request of a unified program agency may bring a civil action in the name of the People of the State of California to enjoin any violation of Chapter 6.5 and to seek civil penalties for violations of the provisions of Chapter 6.5 which are under the jurisdiction of the unified program agency. Several local agencies, environmental health departments, and unified program agencies have requested the Local Prosecutors to bring a civil action in the name of the People of the State of California to enjoin violations of Chapter 6.5, and to seek civil penalties for violations of the provisions of Chapter 6.5 that are under the jurisdiction of the agencies.

1 4. Pursuant to Health and Safety Code section 25299.01, the Attorney General and
2 the Local Prosecutors may bring an action to enjoin any violation of Chapter 6.7 of Division 20 of
3 the Health and Safety Code (hereinafter "Chapter 6.7"), or for an order directing compliance with
4 Chapter 6.7.

5 5. Pursuant to Health and Safety Code sections 25514 and 25516.1, the Attorney
6 General and the Local Prosecutors may bring an action for civil penalties for violations of Health
7 and Safety Code sections 25503.5 to 25505, inclusive, and sections 25508 to 25520, inclusive.
8 Pursuant to Health and Safety Code section 25516, the Local Prosecutors, when requested by an
9 administering agency, may bring an action to enjoin a violation of Chapter 6.95 of Division 20 of
10 the Health and Safety Code (hereinafter "Chapter 6.95"). Several administering agencies have
11 requested the Attorney General and the Local Prosecutors to bring an action to enjoin violations
12 of Chapter 6.95, and to seek civil penalties for violations of the provisions of Chapter 6.95 that
13 are under the jurisdiction of the agencies.

14 6. Pursuant to Business and Professions Code sections 17203, 17204, and 17206, the
15 Attorney General and the Local Prosecutors may bring actions in the name of the People of the
16 State of California in a superior court for an injunction against any person who engages, had
17 engaged, or proposes to engage in unfair competition and for civil penalties for each act of unfair
18 competition.

19 7. Plaintiff brings this action without prejudice to any other action or claims which
20 Plaintiff may have based on separate, independent and unrelated violations arising out of matters
21 or allegations that are not set forth in this Complaint.

22 **DEFENDANT WAL-MART STORES, INC.**

23 8. Defendant Wal-Mart Stores, Inc. (hereinafter "Wal-Mart") is now and, at all times
24 mentioned in this complaint was, a Delaware corporation that does and did business in its own
25 capacity and/or through affiliates in the State of California at the Wal-Mart and Sam's Club
26 facilities identified in Exhibit A (hereinafter collectively referred to as "California Facilities").
27 The California Facilities are located throughout California, and Wal-Mart's principal corporate
28 office is in Bentonville, Arkansas. The People are informed and believe, and thereon allege, that
Wal-Mart is the owner and/or operator of the California Facilities. Wal-Mart sells hazardous

1 materials at the California Facilities that are retail stores, including aerosol products, fertilizers,
2 ignitable liquids, paints, pesticides, pool chemicals, and other flammable or corrosive materials.
3 Wal-Mart also generates quantities of hazardous waste at the California Facilities from spills and
4 releases of hazardous materials, and from customer returns of hazardous items.

5 9. Defendant Wal-Mart is, or at all times relevant to the claims in this complaint was,
6 legally responsible for compliance with the provisions of the Health and Safety Code, including
7 Chapters 6.5, 6.7 and 6.95 of Division 20, at its California Facilities. The People are informed
8 and believe and thereon allege that Wal-Mart is responsible for the operations of the California
9 Facilities, that Wal-Mart controls the hazardous materials and hazardous waste management
10 decisions at those California Facilities, that Wal-Mart took actions that caused the violations
11 alleged herein, and that Wal-Mart's authority, control and actions at those California Facilities
12 and in conducting business in California are such that Wal-Mart could have taken action to
13 prevent the violations alleged herein.

14 10. Wal-Mart is a "person," as defined in Health and Safety Code section 25118.
15 Wal-Mart is a "business," as defined in Health and Safety Code section 25501, subdivision (d).

16 11. In this Complaint when reference is made to any act of Wal-Mart, such allegations
17 shall include acts of the owners, officers, directors, agents, employees, contractors, affiliates, or
18 representatives of Wal-Mart that supervise, control or direct its employees and agents while
19 engaged in the management, direction, operation or control of the affairs of the business
20 organization and did so while acting within the course and scope of employment or agency of
21 Wal-Mart.

22 JURISDICTION AND VENUE

23 12. Venue is proper in this county pursuant to Health and Safety Code section 25183
24 in that certain of the violations alleged in the Complaint occurred in the County of San Diego and
25 that certain other statewide violations alleged in the Complaint are related to such violations.
26 This Court has jurisdiction pursuant to Article 6, section 10 of the California Constitution.

27 STATUTORY AND REGULATORY BACKGROUND

28 13. The State of California has enacted a comprehensive statutory and regulatory
framework for the generation, handling, treatment, storage, transportation, and disposal of

1 hazardous wastes. This framework, contained in Hazardous Waste Control Law, Chapter 6.5 of
2 Division 20 of the Health and Safety Code, section 25100 et seq. ("HWCL" or "Chapter 6.5") and
3 its implementing regulations, which are found at California Code of Regulations, title 22, section
4 66260.1 et seq., mandates a "cradle to grave" system. The HWCL system is maintained to record
5 the registration, tracking, storage, treatment, and disposal of hazardous wastes and to provide for
6 the protection of the public from the potential risks posed by hazardous wastes.

7 14. The HWCL is the California analog of the federal Resource Conservation and
8 Recovery Act, 42 U.S.C. section 6901 et seq. ("RCRA"). Pursuant to state and federal law, the
9 California Department of Toxic Substances Control ("DTSC") administers the HWCL in lieu of
10 federal administration of RCRA in California. (See Health & Saf. Code, § 25101, subd. (d).)
11 Federal law prohibits California from imposing "any requirements less stringent than those
12 authorized under [RCRA]." (42 U.S.C. § 6929.)

13 15. The HWCL has in certain instances a more inclusive definition of hazardous waste
14 than does federal law. Hazardous wastes that are regulated under California law but not federal
15 law are known as "non-RCRA hazardous wastes." (Health & Saf. Code, § 25117.9.)

16 16. Companies that accumulate or generate hazardous waste in the course of their
17 operations and send that waste offsite for management are subject to certain regulatory
18 requirements. (See Cal. Code Regs., tit. 22, § 66262.10 et seq.)

19 17. It is unlawful for any person to transport hazardous wastes unless the person holds
20 a valid registration issued by the DTSC, and it is unlawful for any person to transfer custody of a
21 hazardous waste to a transporter who does not hold a valid registration. (Health & Saf. Code, §
22 25163, subd. (a).)

23 18. Chapter 6.7 of Division 20 of the Health and Safety Code regulates the
24 underground storage of hazardous substances in the State of California. It establishes
25 requirements to "ensure that newly constructed underground storage tanks meet appropriate
26 standards and that existing tanks be properly maintained, inspected, tested, and upgraded so that
27 the health, property, and resources of the people of the state will be protected." (Health & Saf.
28 Code, § 25280, subd. (b).)

1 19. Chapter 6.95 of Division 20 of the Health & Safety Code regulates the handling,
2 release and threatened release of hazardous materials in the State of California. Article 1 of
3 Chapter 6.95 concerns the development and review of business plans relating to the handling and
4 release or threatened release of hazardous material. Business plans must include specific
5 information designed "to prevent or mitigate the damage to the health and safety of persons and
6 the environment from the release or threatened release of hazardous materials into the workplace
7 and environment." (Health & Saf. Code, §§ 25500, 25504.)

8 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

9 20. Section 25189 of the Health and Safety Code creates liability for any negligent or
10 intentional violation of the HWCL, or for any violation of any permit, rule, regulation, standard,
11 or requirement issued or promulgated pursuant to the HWCL. Section 25189.2 is an alternative
12 strict liability provision, which creates liability for any violation of the HWCL, or for any
13 violation of any permit, rule, regulation, standard, or requirement issued or promulgated pursuant
14 to the HWCL.

15 21. The HWCL, pursuant to Health and Safety Code sections 25181 and 25184,
16 authorizes the Court to issue an order that enjoins any ongoing or potential violation of the
17 HWCL, or any applicable rule, regulation, permit, standard, requirement, or order issued or
18 promulgated pursuant to the HWCL.

19 22. Section 25181 of the Health and Safety Code provides that when the DTSC or a
20 unified program agency determines that any person has engaged in, is engaged in, or is about to
21 engage in any acts or practices which constitute or will constitute a violation of any provision of
22 the HWCL or any rule regulation, or requirement issued or promulgated thereunder, and when
23 requested by the DTSC or unified program agency, the Attorney General or local prosecutor may
24 make an application to the superior court for an order enjoining such acts or practices, or for an
25 order directing compliance, and upon an appropriate showing by the DTSC or unified program
26 agency that such person has engaged in or is about to engage in any such acts or practices, a
27 permanent or temporary injunction, restraining order, or other order may be granted.

28 23. Health and Safety Code section 25184 provides that in civil actions brought
pursuant to the HWCL in which an injunction or temporary restraining order is sought, it shall not

1 be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur
2 should the temporary restraining order, preliminary injunction, or permanent injunction not be
3 issued; or that the remedy at law is inadequate, and the temporary restraining order, preliminary
4 injunction, or permanent injunction shall issue without such allegations and without such proof.

5 24. The HWCL, in sections 25180 and 25185, authorizes the DTSC, and properly
6 designated local health agencies and unified program agencies, to enforce the standards codified
7 in Chapter 6.5 and the regulations adopted pursuant to the Health and Safety Code, and to
8 conduct inspections.

9 GENERAL ALLEGATIONS

10 25. The People and Wal-Mart entered into a series of agreements to toll any applicable
11 statute of limitations. As a result of these agreements, the period of time from January 15, 2006,
12 through the date of the filing of the Complaint herein, inclusive, (the "Tolling Period"), will not
13 be included in computing the time limited by any statute of limitations under the causes of action
14 against Wal-Mart that may arise out of claims covered by the tolling agreement. Those claims
15 include the claims that are brought in this action against Wal-Mart.

16 26. In March 2006, employees of the Wal-Mart store at 4940 Shawline St. in San
17 Diego drove a rental truck to Miramar Landfill and disposed of hazardous and universal wastes
18 from the store. Miramar Landfill is a solid waste landfill that is not authorized to accept
19 hazardous or universal wastes for disposal. The items that the employees disposed included: 2.5
20 gallons of motor oil; transmission fluid; a 5 pound fire extinguisher; rechargeable batteries; 3
21 pounds of other batteries; and corrosive and flammable household chemicals. Investigation
22 revealed a store manager told the employees to dispose of the items from the customer return
counter at the landfill.

23 27. In April 2006, employees of the Wal-Mart store at 3412 College Ave. in San
24 Diego drove a rental truck to Miramar Landfill and disposed of hazardous and universal wastes
25 from the store. The items that the employees disposed included: 3 gallons of bleach; a remote
26 control with batteries; a water cooler element; and prohibited electronic waste consisting of a
27 DVD player. Investigation revealed the employees had been told by the manager to dispose of
28 the items at the landfill.

1 28. In June 2005, an inspection of the Wal-Mart store at 605 Fletcher Parkway in El
2 Cajon revealed that used automotive batteries were haphazardly stored, tipped over and leaked
3 sulfuric acid on the asphalt pavement where the acid dried.

4 29. In October 2005, an inspection of the Wal-Mart store at 3382 Murphy Canyon
5 Road in San Diego revealed that absorbent contaminated with a spilled hazardous material, paint,
6 was thrown into the trash. Similarly, at 170 Town Center Parkway in Santee, Wal-Mart
7 employees cleaned up hazardous spills and left the used absorbent to be thrown out in the trash.

8 30. In January of 2005, employees at the Wal-Mart store at 26502 Towne Center
9 Parkway in Foothill Ranch, Orange County, disposed of expired fertilizers and other garden
10 products by spreading them out in a planter behind the store. When Orange County District
11 Attorney Investigators (who had been alerted to the disposal by an employee complaint to the
12 Irvine Ranch Water District) arrived, the fertilizer was observed in small piles spread throughout
13 the 10 foot by 200 foot planter and, due to rain, was seen going into the storm drain. Laboratory
14 tests of this fertilizer confirmed it to be hazardous. During the subsequent investigation, one of
15 the employees who disposed of the waste noted he had been employing this practice of fertilizer
16 disposal for approximately one year.

17 31. In August 2005, inspectors at the Robert Nelson Transfer Station in Riverside
18 County discovered bags of the pesticide AMAZE® at the bottom of a load of trash that came
19 from a Wal-Mart store in Rialto in San Bernardino County. Riverside County District Attorney
20 investigators, Riverside County Environmental Health, Hazardous Materials Division Specialists
21 and the Riverside County Waste Management Department responded to the transfer station,
22 finding 77 of the 8 pound bags of pesticide in the load. Upon examination of the EPA registered
23 pesticide, investigators from the County of Riverside Agricultural Commissioner's Office
24 determined that the Rialto Wal-Mart had violated California law related to the proper disposal of
25 waste pesticides.

26 32. In September 2005, inspections of the Wal-Mart store located at 470 McKinley
27 Street in Corona and the store at 32225 Highway 79 in Temecula, both in Riverside County,
28 revealed that hazardous wastes in damaged containers and spills of hazardous chemicals that were

1 absorbed with absorbent were transported to the return center by an unlicensed hauler and without
2 a manifest as required by law.

3 33. In September 2005, an inspection of the Wal-Mart store at 479 McKinley Street in
4 Corona, Riverside County, revealed that spills of waste oil were being cleaned with absorbent and
5 then thrown in the municipal trash.

6 34. In April 2002, local officials in Solano County, California received a citizen report
7 of a child playing on a pile of yellowish colored powder near the garden department at a Wal-
8 Mart store in Vacaville, California. The Deputy Agriculture Commissioner was dispatched and
9 observed piles of multi-colored unknown fertilizer type substances and torn sacks of ammonium
10 sulfate. Subsequent investigations revealed that for a period of several years, the Vacaville Wal-
11 Mart had failed to comply with California environmental laws related to the storage, handling,
12 and disposal of hazardous waste and materials, namely fertilizers, pesticides, and herbicides sold
13 in its garden center.

14 35. In late 2005, the Attorney General's Office joined with the District Attorneys'
15 offices in various counties in the State of California to coordinate investigation of Wal-Mart. The
16 investigation focused on violations of California laws regarding illegal disposal, transportation,
17 and storage of hazardous wastes, as well as compliance with hazardous materials management
18 plan requirements for each California Facility.

19 36. As a result of the above-referenced investigation, Plaintiff is informed and believes
20 and thereupon alleges that Wal-Mart has violated provisions of the following statutes, including
21 implementing regulations associated with each of the statutes and any related permit, rule,
22 standard, or requirement issued or promulgated pursuant to these statutes, at California Facilities
23 within the time period applicable to this action: Chapter 6.5 of the Health and Safety Code,
24 section 25100 et seq., Chapter 6.7 of the Health and Safety Code, section 25280 et seq., and
25 Chapter 6.95 of the Health and Safety Code, section 25500 et seq.

26 37. Plaintiff is informed and believes and thereupon alleges that Wal-Mart engaged in
27 conduct or failed to act in a manner that violated provisions of the statutory and legal
28 requirements identified in the preceding paragraph, including but not limited to the following:

- a. Disposing, or causing the disposal of, hazardous waste at a point not authorized, in violation of Health and Safety Code sections 25189 and 25189.2, including to drains at California Facilities, onto the surface or subsurface of the ground at unauthorized locations, and at non-hazardous landfills and other locations not authorized to receive hazardous waste;
- b. Transporting hazardous waste at, to, from and between California Facilities on Wal-Mart and Sam's Club vehicles without a valid registration issued by the DTSC, in violation of Health and Safety Code section 25163;
- c. Transporting hazardous waste to unauthorized locations, including, without limitation, Wal-Mart return and distribution centers, in violation of California Code of Regulations, title 22, section 66263.23;
- d. Failing to determine whether items returned by customers to California Facilities, and wastes generated at California Facilities via spills, container breakage, and other means, were hazardous wastes, in violation of California Code of Regulations, title 22, section 66262.11;
- e. Failing to handle hazardous waste from customer returns to California Facilities, and hazardous waste generated at California Facilities by spills, container breakage, and other means, in accordance with the requirements of Chapter 6.5 of the Health & Safety Code and its implementing regulations in the California Code of Regulations, Title 22.
- f. Failing to treat returned or discarded non-empty aerosol cans at California Facilities as universal waste or hazardous waste, in violation of California Code of Regulations, title 22, Chapter 23, section 66273.1 et seq.
- g. Failing to comply with employee training obligations pertaining to handling of hazardous waste at California Facilities, in violation of California Code of Regulations, Title 22, section 66265.16.
- h. Failing to manage, identify the date of accumulation, and label containers of hazardous waste at California Facilities, in violation of California Code of Regulations, title 22, section 66262.34;

- 1 i. Failing to label containers of hazardous waste before transporting hazardous waste
2 from California Facilities, in violation of California Code of Regulations, title 22,
3 section 66262.31;
- 4 j. Failing to prepare and maintain hazardous waste manifests, in violation of
5 California Code of Regulations, title 22, section 66260 et seq.;
- 6 k. Failing to operate underground tank systems in compliance with Chapter 6.7 of the
7 Health and Safety Code and its implementing regulations at California Facilities;
- 8 l. Failing to establish and implement business plans for California Facilities,
9 including training in safety procedures in the event of a release, in violation of
10 Health and Safety Code section 25504;
- 11 m. Failing to maintain inventories of hazardous materials, and to submit, certify, and
12 modify as necessary business plans for California Facilities, in violation of Health
13 and Safety Code sections 25505, 25509, and 25510.
- 14 38. Wal-Mart's noncompliance threatened public health and safety and the
15 environment.

16 **FIRST CAUSE OF ACTION**

17 (Disposal of Hazardous Waste at a Point not Authorized)

18 (Health & Saf. Code, §§ 25189, 25189.2)

- 19 39. Plaintiff realleges paragraphs 1 through 38, inclusive.
- 20 40. Health and Safety Code sections 25189 and 25189.2 prohibit the disposal of
21 hazardous waste at a point not authorized under Chapter 6.5. Section 25189, subdivision (c)
22 prohibits the intentional or negligent disposal of hazardous waste at an unauthorized point, and
23 section 25189.2, subdivision (c) prohibits the disposal of hazardous waste at an unauthorized
24 point as a matter of strict liability.
- 25 41. Wal-Mart has disposed or caused the disposal of hazardous waste from its
26 California Facilities at unauthorized points, in violation of California Health and Safety Code
27 sections 25189 and 25189.2.
- 28 42. Each disposal of hazardous waste at an unauthorized point that the People
discovered within five years of commencing this action, exclusive of any applicable tolling

1 periods and those set forth in paragraph 25 herein, subjects Wal-Mart to a separate and additional
2 civil penalty under Health and Safety Code section 25189, or alternatively under section 25189.2.

3 43. Based on the above, the People request injunctive relief against Wal-Mart under
4 Health and Safety Code section 25181, and civil penalties against Wal-Mart under Health and
5 Safety Code section 25189 or 25189.2, as described in the People's prayer for relief.

6 **SECOND CAUSE OF ACTION**

7 (Unauthorized Transportation of Hazardous Waste)

8 (Health & Safety Code, § 25163; Cal. Code Regs., tit. 22, § 66263.23)

9 44. Plaintiff realleges paragraphs 1 through 43, inclusive.

10 45. Chapter 6.5 of the Health and Safety Code prohibits the unauthorized
11 transportation of hazardous waste. Section 25163 prohibits the transportation of hazardous waste
12 without a valid registration from DTSC. California Code of Regulations, title 22, section
13 66263.23(b) prohibits the transportation of hazardous waste to a location not permitted or
14 otherwise authorized by DTSC to receive the waste.

15 46. Wal-Mart has engaged in the transportation of hazardous waste without a valid
16 registration from DTSC, from Wal-Mart's California Facilities to unauthorized locations, in
17 violation of Health and Safety Code section 25163 and California Code of Regulations, title 22,
18 section 66263.23.

19 47. Each act of unauthorized transportation that the People discovered within five
20 years of commencing this action, exclusive of any applicable tolling periods and those set forth in
21 paragraph 25 herein, subjects Wal-Mart to a separate and additional civil penalty under Health
22 and Safety Code section 25189, or alternatively under section 25189.2.

23 48. Based on the above, the People request injunctive relief against Wal-Mart under
24 Health and Safety Code section 25181, and civil penalties against Wal-Mart under Health and
25 Safety Code section 25189 or 25189.2, as described in the People's prayer for relief.

26 **THIRD CAUSE OF ACTION**

27 (Violation of Hazardous Waste Handling and Storage Requirements)

28 (Health & Safety Code Chapter 6.5 and Implementing Regulations)

49. Plaintiff realleges paragraphs 1 through 48, inclusive.

1 50. Wal-Mart has violated the hazardous waste handling and storage requirements
2 applicable to its California Facilities by virtue of the acts described in paragraph 37 above.

3 51. Each violation of hazardous waste handling and storage requirements that the
4 People discovered within five years of commencing this action, exclusive of any applicable
5 tolling periods and those set forth in paragraph 25 herein, subjects Wal-Mart to a separate and
6 additional civil penalty under Health and Safety Code section 25189, or alternatively under
7 section 25189.2.

8 52. Based on the above, the People request injunctive relief against Wal-Mart under
9 Health and Safety Code section 25181, and civil penalties against Wal-Mart under Health and
10 Safety Code section 25189 or 25189.2, as described in the People's prayer for relief.

11 **FOURTH CAUSE OF ACTION**

12 (Violation of Underground Tank System Requirements)

13 (Health & Safety Code Chapter 6.7 and Implementing Regulations)

14 53. Plaintiff realleges paragraphs 1 through 52, inclusive.

15 54. Within five years of commencing this action, exclusive of any applicable tolling
16 periods and those set forth in paragraph 25 herein, Wal-Mart has violated Chapter 6.7 of the
17 Health and Safety Code at certain California Facilities, by installing and operating underground
18 tank systems that do not comply with Chapter 6.7 and its implementing regulations.

19 55. Based on the above, the People request injunctive relief against Wal-Mart under
20 Health and Safety Code section 25299.01, as described in the People's prayer for relief.

21 **FIFTH CAUSE OF ACTION**

22 (Violations of Hazardous Materials Release Response Plans and Inventory Laws)

23 56. Plaintiff realleges paragraphs 1 through 55, inclusive.

24 57. Wal-Mart is liable for civil penalties as set forth in Health and Safety Code section
25 25514 for each and every separate violation of Health and Safety Code sections 25503.5 to
26 25505, inclusive, and sections 25508 to 25510, inclusive, and any applicable permit, rule,
27 regulation, standard, or requirement issued or promulgated pursuant thereto which occurred
28 within five years after the discovery of the facts constituting grounds for commencing the action

1 on these claims, exclusive of any applicable tolling periods and those set forth in paragraph 25
2 herein.

3 58. As a consequence of Wal-Mart's violation of each of these sections, Wal-Mart is
4 liable for a civil penalty that must be imposed for each separate violation in an amount up to
5 \$2,000.00 for each day in which the violation occurred, pursuant to Health and Safety Code
6 section 25514, subdivision (a).

7 59. As a consequence of Wal-Mart's knowing violation of any of these sections, Wal-
8 Mart is liable for a civil penalty that must be imposed for each separate violation in an amount up
9 to \$5,000.00 for each day in which the violation occurred, pursuant to Health and Safety Code
10 section 25514, subdivision (b).

11 60. Wal-Mart must be immediately and permanently enjoined from further violations
12 of Chapter 6.95, as described in the People's prayer for relief.

13 SIXTH CAUSE OF ACTION

14 (Violations of Unfair Competition Laws)

15 61. Plaintiff realleges paragraphs 1 through 60, inclusive.

16 62. Pursuant to Business and Professions Code section 17206, Wal-Mart is liable for
17 civil penalties for each and every separate violation that accrued within four years of this
18 Complaint, exclusive of any applicable tolling periods and those set forth in paragraph 25 herein.
19 Wal-Mart has engaged in unlawful acts, omissions, and practices that constitute unfair
20 competition within the meaning of Business and Professions Code section 17200 et seq.,
21 including but not limited to the acts or omissions and practices alleged in the First through Fourth
22 Causes of Action, above.

23 63. By the acts described herein, Wal-Mart engaged in daily acts of unlawful and/or
24 unfair competition prohibited by Business and Professions Code sections 17200-17208. Each and
25 every separate act constitutes an unlawful and/or unfair business practice. Each day that Wal-
26 Mart engaged in each separate unlawful act, omission or practice is a separate and distinct
27 violation of Business and Professions Code section 17200.

28 64. Wal-Mart must be immediately and permanently enjoined, pursuant to Business
and Professions Code section 17203, from engaging in activities that, as alleged in this

1 Complaint, violate Chapters 6.5, 6.7 and 6.95 of Division 20 of the Health and Safety Code and
2 implementing regulations, and which thereby constitute unfair competition within the meaning of
3 Business and Professions Code section 17200.

4 **PRAYER FOR RELIEF**

5 The People request:

6 1. A Permanent Injunction requiring Wal-Mart to comply with those provisions of
7 Health and Safety Code, Division 20, Chapter 6.5 and implementing regulations, which Wal-Mart
8 is alleged to have violated;

9 2. A Permanent Injunction requiring Wal-Mart to comply with those provisions of
10 Health and Safety Code, Division 20, Chapter 6.7 and implementing regulations, which Wal-Mart
11 is alleged to have violated;

12 3. A Permanent Injunction requiring Wal-Mart to comply with those provisions of
13 Health and Safety Code, Division 20, Chapter 6.95 and implementing regulations, which Wal-
14 Mart is alleged to have violated;

15 4. A Permanent Injunction, issued pursuant to Business and Professions Code
16 section 17203, prohibiting Wal-Mart from engaging in activity that violates the provisions of
17 Chapters 6.5, 6.7 or 6.95 of Division 20 of the Health and Safety Code, as alleged in this
18 complaint which thereby constitute unfair competition within the meaning of Business and
19 Professions Code section 17200;

20 5. Civil penalties according to proof against Wal-Mart pursuant to Health and Safety
21 Code section 25189, or alternatively section 25189.2, in an amount according to proof;

22 6. Civil penalties according to proof against Wal-Mart pursuant to Health and Safety
23 Code section 25514, in an amount according to proof;

24 7. Civil penalties according to proof against Wal-Mart pursuant to Business and
25 Professions Code section 17206 for each act of unfair competition engaged in by Wal-Mart, in an
26 amount according to proof;

27 8. Plaintiff's cost of inspection, investigation, attorneys fees, enforcement,
28 prosecution, and suit herein, including but not limited to such costs as are authorized for
reimbursement pursuant to Code of Civil Procedure section 1021.8; and,

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9. Such other and further relief as the Court deems just and proper.

Dated: 4-1-10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
DON ROBINSON
Supervising Deputy Attorney General



By: THOMAS G. HELLER
Deputy Attorney General
Attorneys for Plaintiff
People of the State of California

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Exhibit A

Exhibit A: Wal-Mart Stores, Inc. California Facilities

Facility No.	STREET ADDRESS	CITY	COUNTY	ZIP	TYPE*	DARK**
5426	40580 Albrae Street	Fremont	Alameda	94538	WM	
2989	44009 Osgood Road	Fremont	Alameda	94539	WM	
1972	2700 Las Positas Road	Livermore	Alameda	94550	WM	
5457	8400 Edgewater Drive	Oakland	Alameda	94621	WM	
2161	4501 Rosewood Drive	Pleasanton	Alameda	94588	WM	
2648	1919 Davis Street	San Leandro	Alameda	94577	WM	
5434	15555 Hesperian Blvd.	San Leandro	Alameda	94579	WM	
2031	30600 Dyer Street	Union City	Alameda	94587	WM	
2054	10355 Wicklow Way	Martell	Amador	95642	WM	
2044	2044 Forest Avenue	Chico	Butte	95928	WM	
1575	355 Oro Dam Blvd	Oroville	Butte	95965	WM	
2697	4893 Lone Tree Way	Antioch	Contra Costa	94509	WM	
6612	1225 Concord Avenue	Concord	Contra Costa	94520	SC	
1615	2203 Loveridge Road	Pittsburg	Contra Costa	94565	WM	
3455	1400 Hilltop Mall Road	Richmond	Contra Costa	94806	WM	
3493	1021 Arnold Drive	Martinez	Contra Costa	94553	WM	
1910	900 E Washington Blvd.	Crescent City	Del Norte	95531	WM	
2418	4300 Missouri Flat Road	Placerville	El Dorado	95667	WM	
2277	323 West Shaw Avenue	Clovis	Fresno	93612	WM	
2985	7065 North Ingram Ave.	Fresno	Fresno	93650	WM	
4238	2761 Jensen Ave	Sanger	Fresno	93657	WM	
	2951 S. Angus	Fresno	Fresno	93706	Storage	
1815	3680 West Shaw Ave.	Fresno	Fresno	93711	WM	
4704	7663 N. Blackstone Ave.	Fresno	Fresno	93720	SC	
2001	5125 East Kings Canyon	Fresno	Fresno	93727	WM	
1882	3400 Floral Avenue	Selma	Fresno	93662	WM	
2053	470 Airport Avenue	Willows	Glenn	95988	WM	
5335	250 Wildcat Drive	Brawley	Imperial	92227	WM	
1859	2540 Rockwood Avenue	Calexico	Imperial	92231	WM	
1555	2150 N. Waterman Ave.	El Centro	Imperial	92243	WM	
	2050 N. Imperial Avenue	El Centro	Imperial	92243	WM	Dark
1624	2601 Fashion Place	Bakersfield	Kern	93306	WM	
1574	6225 Colony Street	Bakersfield	Kern	93307	WM	
	2300 White Lane	Bakersfield	Kern	93307	WM	Dark
2557	8400 Rosedale Hwy	Bakersfield	Kern	93312	WM	
4819	5625 Gosford Road	Bakersfield	Kern	93313	SC	
5134	5075 Gosford Road	Bakersfield	Kern	93313	WM	
1600	911 S. China Lake Blvd.	Ridgecrest	Kern	93555	WM	

Facility No.	STREET ADDRESS	CITY	COUNTY	ZIP	TYPE*	DARK**
1645	250 South 12 th Ave.	Hanford	Kings	93230	WM	
	1750 West Lacey Blvd.	Hanford	Kings	93230	WM	Dark
1979	15960 Dam Road	Clearlake	Lake	95422	WM	
1616	2900 Main Street	Susanville	Lassen	96130	WM	
3477	7250 Carson Blvd.	Long Beach	Los Angeles	90808	WM	
3522	3250 Big Dalton Avenue	Baldwin Park	Los Angeles	91706	WM	
2082	12701 Towne Center Dr.	Cerritos	Los Angeles	90703	WM	
2251	17150 East Gale Avenue	City of Industry	Los Angeles	91745	WM	
6611	17835 E. Gale Avenue	City of Industry	Los Angeles	91748	SC	
2292	1275 North Azusa Ave.	Covina	Los Angeles	91722	WM	
2401	1600 S Mountain Avenue	Duarte	Los Angeles	91010	WM	
6614	4901 Santa Anita Ave.	El Monte	Los Angeles	91731	SC	
6617	1399 W. Artesia Blvd.	Gardena	Los Angeles	90248	SC	
1941	1950 Auto Center Drive	Glendora	Los Angeles	91740	WM	
6240	1301 S. Lone Hill Ave	Glendora	Los Angeles	91740	SC	
2609	2770 Carson Street	Lakewood	Los Angeles	90712	WM	
1563	44665 Valley Central Way	Lancaster	Los Angeles	93534	WM	
2951	1731 East Avenue J	Lancaster	Los Angeles	93535	WM	
2960	4101 S. Crenshaw Blvd.	Los Angeles	Los Angeles	90008	WM	
2949	151 East 5 th Street	Long Beach	Los Angeles	90802	WM	
6613	7480 Carson Blvd.	Long Beach	Los Angeles	90808	SC	
5164	11729 Imperial Highway	Norwalk	Los Angeles	90650	WM	
2110	14501 Lakewood Blvd.	Paramount	Los Angeles	90723	WM	
2568	8333 Van Nuys Blvd.	Panorama City	Los Angeles	91402	WM	
1660	40130 10 th Street West	Palmdale	Los Angeles	93551	WM	
4767	39940 10 th Street West	Palmdale	Los Angeles	93551	SC	
2950	37140 47 th Street East	Palmdale	Los Angeles	93552	WM	
2886	8500 Washington Blvd.	Pico Rivera	Los Angeles	90660	WM	
2526	19821 Rinaldi Street	Porter Ranch	Los Angeles	91326	WM	
2288	80 Rio Rancho Road	Pomona	Los Angeles	91766	WM	
5154	1827 Walnut Grove Blvd.	Rosemead	Los Angeles	91770	WM	
2948	13310 Telegraph Road	Santa Fe Springs	Los Angeles	90670	WM	
6625	12920 Foothill Blvd.	San Fernando	Los Angeles	91340	SC	
3523	26471 Carl Boyer Drive	Santa Clarita	Los Angeles	91350	WM	

Facility No.	STREET ADDRESS	CITY	COUNTY	ZIP	TYPE*	DARK**
4824	26468 Carl Boyer Drive	Santa Clarita	Los Angeles	91350	SC	
5162	27931 Kelly Johnson Pkwy.	Santa Clarita	Los Angeles	91355	WM	
6626	5871 Firestone Blvd.	South Gate	Los Angeles	90280	SC	
2297	25450 The Old Road.	Stevenson Ranch	Los Angeles	91381	WM	
5072	19503 S. Normandie Ave.	Torrance	Los Angeles	90501	WM	
6628	2601 Skypark Drive	Torrance	Los Angeles	90505	SC	
5152	6433 Fallbrook Avenue	West Hills	Los Angeles	91307	WM	
1583	1977 W. Cleveland Ave.	Madera	Madera	93637	WM	
	2825 Falcon Drive	Madera	Madera	93637	Storage	
2052	1155 Airport Park Blvd.	Ukiah	Mendocino	95482	WM	
2117	1575 W. Pacheco Blvd.	Los Banos	Merced	93635	WM	
2039	3055 Loughborough Dr.	Merced	Merced	95348	WM	
	1985 Olive Avenue	Merced	Merced	95348	Storage	
4488	150 Beach Road	Marina	Monterey	93933	WM	
2458	1375 North Davis Road	Salinas	Monterey	93907	WM	
2925	681 Lincoln Avenue	Napa	Napa	94559	WM	
2242	440 North Euclid Street	Anaheim	Orange	92801	WM	
2523	2595 East Imperial Hwy	Brea	Orange	92821	WM	
5032	8450 La Palma Avenue	Buena Park	Orange	90620	WM	
2218	26502 Towne Center Dr.	Foothill Ranch	Orange	92610	WM	
6615	17099 Brookhurst Street	Fountain Valley	Orange	92708	SC	
6616	629 S Placentia Avenue	Fullerton	Orange	92831	SC	
2636	8230 Talbert Avenue	Huntington Beach	Orange	92646	WM	
6618	16555 Von Karman Ave.	Irvine	Orange	92606	SC	Dark
2206	27470 Alicia Pkwy.	Laguna Niguel	Orange	92677	WM	
3248	1340 South Beach Blvd.	La Habra	Orange	90631	WM	
4735	1390 South Beach Blvd.	La Habra	Orange	90631	SC	
2546	2300 North Tustin Street	Orange	Orange	92865	WM	
2517	3600 W. Mcfadden Ave.	Santa Ana	Orange	92704	WM	
	1932 East Deere Ave.	Santa Ana	Orange	92705	Office	
2527	951 Avenida Pico	San Clemente	Orange	92673	WM	
6627	12540 Beach Blvd.	Stanton	Orange	90680	SC	
2495	13331 Beach Blvd.	Westminster	Orange	92683	WM	
1988	900 Pleasant Grove Blvd.	Roseville	Placer	95678	WM	

Facility No.	STREET ADDRESS	CITY	COUNTY	ZIP	TYPE*	DARK**
3587	1400 Lead Hill Blvd.	Roseville (S)	Placer	95661	WM	
6621	904 Pleasant Grove Blvd.	Roseville	Placer	95678	SC	
	384 N. Sunrise Blvd.	Roseville	Placer	95678	SC	Dark
7033	21101 Johnson Road	Apple Valley	Riverside	92307	DC	
5156	1540 East 2 nd Street	Beaumont	Riverside	92223	WM	
1912	479 N Mckinley St.	Corona	Riverside	92879	WM	
2842	1290 East Ontario Ave.	Corona	Riverside	92881	WM	
4709	1375 East Ontario Ave.	Corona	Riverside	92882	SC	
1853	1231 S. Sanderson Ave.	Hemet	Riverside	92545	WM	
1805	79295 US Hwy 111	La Quinta	Riverside	92253	WM	
	78950 Highway 11	La Quinta	Riverside	92253	WM	Dark
4941	79315 Highway 111	La Quinta	Riverside	92253	SC	Dark
2077	31700 Grape Street	Lake Elsinore	Riverside	92530	WM	
5193	12721 Moreno Beach Dr.	Moreno Valley	Riverside	92555	WM	
2952	41200 Murrieta Hot Springs Rd.	Murrieta	Riverside	92562	WM	
4822	40500 Murrieta Hot Springs Rd.	Murrieta	Riverside	92563	SC	
5096	34500 Monterey Avenue	Palm Desert (C.City)	Riverside	92260	WM	
6609	34220 Monterey Avenue	Palm Desert	Riverside	92260	SC	
1832	5601 East Ramon Road	Palm Springs	Riverside	92262	WM	
1747	2560 North Perris Blvd.	Perris	Riverside	92571	WM	
1899	2663 Canyon Springs Pkwy.	Riverside	Riverside	92507	WM	
2028	5200 Van Buren Blvd.	Riverside	Riverside	92503	WM	
6378	6363 Valley Springs Pkwy	Riverside	Riverside	92507	SC	
5425	1861 S. San Jacinto Ave.	San Jacinto	Riverside	92583	WM	
2708	32225 Highway 79 South	Temecula	Riverside	92592	WM	
1881	7901 Watt Avenue	Antelope	Sacramento	95843	WM	
3712	7010 Auburn Blvd.	Citrus Heights	Sacramento	95621	WM	
4799	7147 Greenback Lane	Citrus Heights	Sacramento	95621	SC	
2457	10655 Folsom Blvd.	Rancho Cordova	Sacramento	95670	WM	
1697	8465 Elk Grove Blvd.	Elk Grove	Sacramento	95758	WM	
1760	1018 Riley Street	Folsom	Sacramento	95630	WM	
6620	2495 Iron Point Rd #11	Folsom	Sacramento	95630	SC	

Facility No.	STREET ADDRESS	CITY	COUNTY	ZIP	TYPE*	DARK**
	4675 Watt Ave.	North Highland	Sacramento	95660	Storage	
4309	8961 Greenback Lane	Orangevale	Sacramento	95662	WM	
2598	3661 Truxel Road	Sacramento	Sacramento	95833	WM	
2735	6051 Florin Road	Sacramento	Sacramento	95823	WM	
	4420 Florin Road	Sacramento	Sacramento	95823	WM	Dark
4760	3671 N. Freeway Blvd.	Sacramento	Sacramento	95834	SC	Dark
5192	5821 Antelope Road	Sacramento	Sacramento	95842	WM	
5230	3460 El Camino Avenue	Sacramento	Sacramento	95821	WM	
6622	8250 Power Inn Road	Sacramento	Sacramento	95828	SC	
	7660 Stockton Blvd.	Sacramento	Sacramento	95828	SC	Dark
6623	3360 El Camino Avenue	Sacramento	Sacramento	95821	SC	
2333	20251 Hwy 18	Apple Valley	San Bernardino	92307	WM	
1879	621 Montara Road	Barstow	San Bernardino	92311	WM	
3464	3943 Grand Avenue	Chino	San Bernardino	91710	WM	
6610	3951 Grand Avenue	Chino	San Bernardino	91710	SC	
1692	1120 S. Mt. Vernon Ave.	Colton	San Bernardino	92324	WM	
1756	17251 Foothill Blvd.	Fontana	San Bernardino	92335	WM	
1914	4210 East Highland Ave.	Highland	San Bernardino	92346	WM	
6619	951 North Milliken	Ontario	San Bernardino	91764	SC	
	8915 Monte Vista Ave. Montclair Towne Square S/C	Ontario	San Bernardino	91763	SC	Dark
1922	12549 Foothill Blvd.	Rancho Cucamonga	San Bernardino	91739	WM	
1693	2050 W. Redlands Blvd.	Redlands	San Bernardino	92374	WM	
1862	1610 S. Riverside Ave.	Rialto	San Bernardino	92376	WM	
3276	4001 Hallmark Parkway	San Bernardino	San Bernardino	92407	WM	
6624	1055 Harriman Place	San Bernardino	San Bernardino	92408	SC	
	895 E. Harriman	San Bernardino	San Bernardino	92408	SC	Dark
1992	1540 W. Foothill Blvd.	Upland	San Bernardino	91786	WM	
1588	15272 Bear Valley Road	Victorville	San Bernardino	92395	WM	
1915	57980 29 Palms Hwy.	Yucca Valley	San Bernardino	92284	WM	
3516	1360 Eastlake Parkway	Chula Vista	San Diego	91915	WM	
5305	1150 Broadway	Chula Vista	San Diego	91911	WM	
2291	75 North Broadway	Chula Vista	San Diego	91910	WM	
2253	13487 Camino Canada	El Cajon	San Diego	92021	WM	
3524	605 Fletcher Parkway	El Cajon	San Diego	92020	WM	

Facility No.	STREET ADDRESS	CITY	COUNTY	ZIP	TYPE*	DARK**
5140	5500 Grossmont Center Dr.	La Mesa	San Diego	91942	WM	
5023	1200 Highland Avenue	National City	San Diego	91950	WM	
2245	705 College Blvd.	Oceanside	San Diego	92057	WM	
2494	2100 Vista Way	Oceanside	San Diego	92054	WM	
5075	3405 Marron Road	Oceanside	San Diego	92056	WM	
1700	13425 Community Road	Poway	San Diego	92064	WM	
1917	170 Town Center Pkwy.	Santee	San Diego	92071	WM	
2150	710 Dennerly Road	San Diego	San Diego	92154	WM	
2177	3382 Murphy Canyon Rd	San Diego	San Diego	92123	WM	
2479	3412 College Ave.	San Diego	San Diego	92115	WM	
5338	4840 Shawline Street	San Diego	San Diego	92111	WM	
6235	6336 College Grove Way	San Diego	San Diego	92115	SC	
2094	1800 University Drive	Vista	San Diego	92083	WM	
6234	1900 University Drive	Vista	San Diego	92083	SC	Dark
3494	732 Center Drive	San Marcos	San Diego	92069	WM	
1789	2350 W. Kettleman Lane	Lodi	San Joaquin	95242	WM	
1840	1205 South Main Street	Manteca	San Joaquin	95337	WM	
1554	3223 East Hammer Lane	Stockton	San Joaquin	95212	WM	
	3702 East Hammer Lane	Stockton	San Joaquin	95212	WM	Dark
2025	3010 W Grant Line Road	Tracy	San Joaquin	95304	WM	
2556	1168 West Branch St.	Arroyo Grande	San Luis Obispo	93420	WM	
2099	180 Niblick Road	Paso Robles	San Luis Obispo	93446	WM	
	8000 Marina Blvd	Brisbana	San Mateo	94005	Office	
1989	701 W Central Avenue	Lompoc	Santa Barbara	93436	WM	
2507	2220 South Bradley	Santa Maria	Santa Barbara	93455	WM	
2002	7150 Camino Arroyo	Gilroy	Santa Clara	95020	WM	
2119	301 Ranch Drive	Milpitas	Santa Clara	95035	WM	
5766	170 Cochrane Plaza	Morgan Hill	Santa Clara	95037	WM	
2280	600 Showers Drive	Mountain View	Santa Clara	94040	WM	
2524	5502 Monterey Rd.	San Jose	Santa Clara	95138	WM	
5435	777 Story Road	San Jose	Santa Clara	95122	WM	
5133	5000 Rhonda Road	Anderson	Shasta	96007	WM	
2537	1515 Dana Drive	Redding	Shasta	96003	WM	
1630	1906 Fort Jones Road	Yreka	Siskiyou	96097	WM	
1651	7011 Main Street	American Canyon	Solano	94503	WM	
	5180 Sonoma Blvd.	American Canyon	Solano	94503	WM	Dark
5139	235 East Dorset Drive	Dixon	Solano	95620	WM	
2048	300 Chadbourne Road	Fairfield	Solano	94534	WM	

Facility No.	STREET ADDRESS	CITY	COUNTY	ZIP	TYPE*	DARK**
1704	1501 Helen Power Drive	Vacaville	Solano	95687	WM	
6433	1500 Helen Power Drive	Vacaville	Solano	95687	SC	
1755	4625 Redwood Drive	Rohnert Park	Sonoma	94928	WM	
2553	6650 Hembree Lane	Windsor	Sonoma	95492	WM	
1983	1670 Mitchell Road	Ceres	Stanislaus	95307	WM	
1587	2225 Plaza Parkway	Modesto	Stanislaus	95350	WM	
	1733 Morgan Road	Modesto	Stanislaus	95350	Storage	
5710	3848 McHenry Ave.	Modesto	Stanislaus	95350	WM	
1963	2111 Fulkerth Road	Turlock	Stanislaus	95380	WM	
1903	1150 Harter Road	Yuba City	Sutter	95993	WM	
6405	900 Walton Ave	Yuba City	Sutter	95993	SC	
1608	1025 South Main	Red Bluff	Tehama	96080	WM	
6026	10815 Hwy 99 West	Red Bluff	Tehama	96080	DC	
5394	770 West El Monte Way	Dinuba	Tulare	93618	WM	
1877	1250 W. Henderson Ave.	Porterville	Tulare	93257	WM	
6021	1300 South F Street	Porterville	Tulare	93257	DC	
2536	1110 E. Prosperity Ave.	Tulare	Tulare	93274	WM	
1826	1819 East Noble Avenue	Visalia	Tulare	93292	WM	
	1945 E. Noble Avenue	Visalia	Tulare	93292	Storage	
2030	1101 Sanguinetti Road	Sonora	Tuolumne	95370	WM	
2032	2001 North Rose Avenue	Oxnard	Ventura	93036	WM	
6455	2401 North Rose Ave	Oxnard	Ventura	93036	SC	
2621	255 Cochran Street	Simi Valley	Ventura	93065	WM	
3652	755 Riverpoint Court	West Sacramento	Yolo	95605	WM	
2190	1720 East Main Street	Woodland	Yolo	95776	WM	
5136	1131 North Beale Road	Marysville	Yuba	95901	WM	

* WM = Walmart Stores or Supercenters; SC = Sam's Club; DC = Distribution Center

** "Dark" refers to facilities that are no longer operational.