

Environmental Compliance in California



August 27, 2019

Antitrust Statement

RILA believes strongly in competition. Our antitrust laws are the rules under which our competitive system operates. It is RILA's policy to comply with both the letter and the spirit of antitrust laws. This Antitrust Statement has been adopted to avoid even the appearance of impropriety under the antitrust laws.

At any association meeting, participants must avoid any discussion of the following subjects in order to avoid even an appearance of impropriety:

- Do not discuss current or future prices, price quotations or bids, pricing policies, discounts, rebates, or credit terms.
- Do not discuss cost information such as production costs, operating costs, or wage and labor rates.
- Do not discuss profits or profit margins, including what is a "fair" profit margin.
- Do not discuss allocating markets, territories, or customers.
- Do not discuss current or future production or purchasing plans, including plans to take facility downtime, production quotas, or limits on output.
- Do not discuss refusing to deal with any suppliers, customers, or competitors (or any class or type of suppliers or customers).
- Do not require or pressure any supplier, customer, or competitor to adopt any particular actions or policies.
- Never agree on any aspect of future pricing or output.

Do not engage in prohibited discussions before a meeting or after a meeting is over. These antitrust guidelines apply not only in formal RILA meetings, but also in hallways, casual conversations, phone calls, emails, text messages, cocktail parties, golf outings, or any other setting that is related in any way to the RILA. If you have questions or concerns, or if you are uncertain about the propriety of any subject of discussion or proposed activity, you should stop the discussion immediately and bring the issue to the attention of RILA staff, or consult your company's general counsel.

Technology Housekeeping

**Please take a minute to mute
your phone.**

This will reduce background noise during the presentation.

Technology Housekeeping

Please do not put us on hold.

Should you need to step away, please hang up and rejoin the call later.

Fall 2019 RILA Retail Environmental Committee Meeting

Wednesday, September 25 to Thursday September 26
Washington, DC

For RILA members or by invitation only

WEDNESDAY, SEPTEMBER 25

- 12:00 PM - 1:00 PM: Lunch
- 1:00 PM - 2:30 PM: Presentations by Smarter Sorting, RILA's Retail Compliance Center, and Stericycle
- 2:30 PM - 2:45 PM: Break
- 2:45 PM - 4:15 PM: Presentations by Walmart and Enviance, and regulatory updates by Beveridge & Diamond
- 4:15 PM - 4:30 PM: Break
- 4:30 PM - 5:45 PM: EPA RCRA Pharm Rule Team exercise; moderated by US Ecology
- 5:30 PM - 5:45 PM: Day one wrap up and closing remarks
- 6:30 PM - 9:00 PM: Networking Reception and Dinner with RILA's Consumer Products Committee at [Cuba Libre](#) (801 9th St NW)

THURSDAY, SEPTEMBER 26

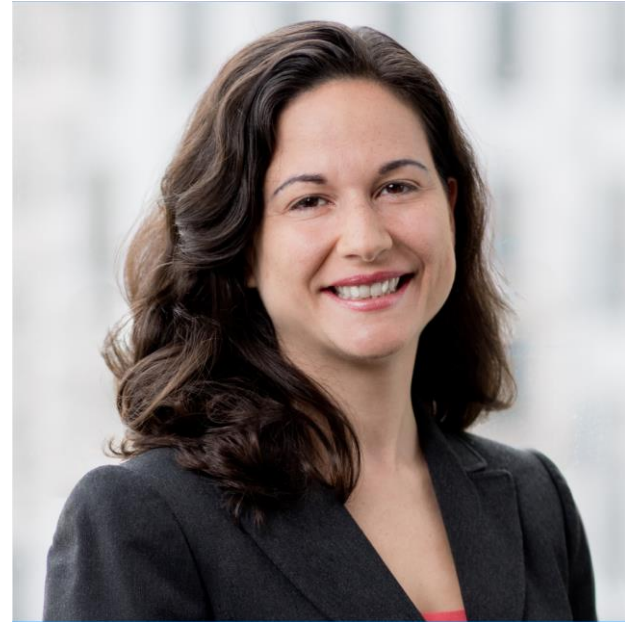
- 8:30 AM - 9:00 AM: Breakfast
- 9:00 AM - 9:45 AM: Presentation by the Department of Transportation on hazardous materials transportation updates
- 9:45 AM - 10:15 AM: Zero Waste Initiative Update
- 10:15 AM - 10:30 AM: Break
- 10:30 AM - 12:30 AM: Pharm Rule Benchmarking and the Innovation Compliance Challenge
- 12:30 PM - 1 PM: Meeting wrap up and Grab and Go Lunch



Contact Kevin Gibney at Kevin.Gibney@rila.org for more information

Angela is a Partner in the San Francisco office of Troutman Sanders, LLP and a member of the firm's Environmental and Natural Resources Section.

Her practice includes **advising retailers on the management of retail products and wastes** under federal and state laws, including **Proposition 65**, the **Safer Consumer Product regulations**, the **Medical Waste Management Act**, the **Hazardous Waste Control Law**, as well as the **Resource Conservation and Recovery Act**.



Environmental Compliance in California

An Overview for Retailers

Angela J. Levin

(415) 477-5787

angela.levin@troutman.com

Agenda

- **Overview of California State and Local Agencies**
- **Key Retail Environmental Programs**
- **Best Practices to Stay Informed**

Alphabet Soup of State Agencies

- **Cal/EPA**
 - Department of Toxic Substances Control
 - Hazardous Waste
 - Cal/Recycle
 - Organics Recycling
 - Commercial Recycling
 - California Air Resources Board
 - Refrigerant Management
- **Cal Department of Health**
 - Medical Waste
- **Office of State Fire Marshal**
 - Emergency Response
- **Office of Environmental Health and Hazard Assessment**
 - Proposition 65

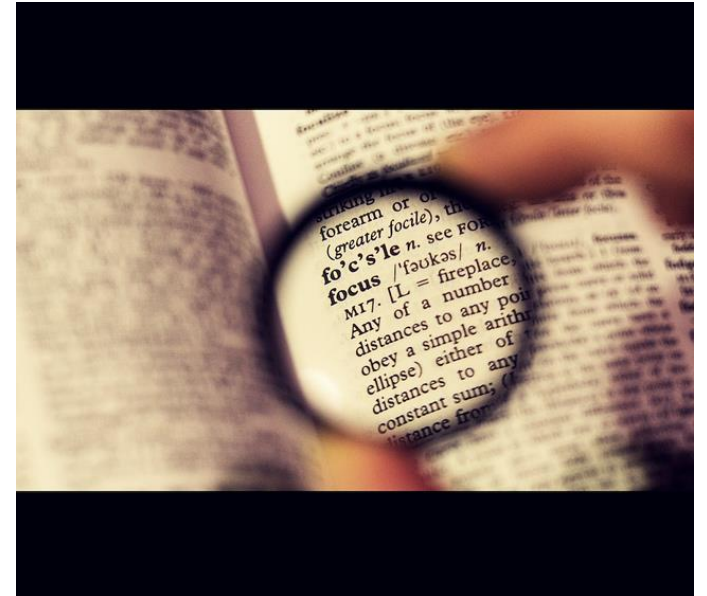


Another Layer – Local Jurisdictions

- **Certified Unified Program Agencies (CUPAs)**
- **Air Quality Management Districts / Air Quality Control Boards**
 - Air permitting and compliance
- **Regional Water Quality Control Boards**
 - Stormwater permitting and compliance

CUPAs in Focus

- **Shared permitting and, inspection, and enforcement authority**
 - Aboveground Petroleum Storage Tank Program
 - Area Plan Program/Business Plan Program
 - California Accidental Release Prevention Program
 - Hazardous Material Management Plan/Hazardous Material Inventory Statement Program
 - Hazardous Waste Generator/Tiered Permitting Program
 - Underground Storage Tank Program
 - Medical Waste Management Act



Key Retail Environmental Compliance Programs

- **Hazardous Materials Management**
- **Hazardous Waste Management**
- **Medical Waste Management**
- **Commercial Recycling**
- **Organics Recycling**
- **Refrigerant Management**
- **Emergency Generator Compliance**
- **Proposition 65**



Hazardous Materials Management

- Hazardous Materials Business Plan
- Statewide thresholds trumped by local ordinances
- California Environmental Reporting System (CERS)



PROPANE



Hazardous & Universal Waste Management

- **Requires discarded materials to be managed in accordance with stringent storage, transport, and disposal obligations if hazardous upon discard**
 - California's Aquatic Toxicity test
- **California's Universal waste rule**
 - E-waste
 - Batteries
 - Electric lamps
 - Mercury-containing equipment
 - Cathode-ray tubes and glass
 - Non-empty aerosol cans

Medical Waste Management Act

- Applies to facilities that generate “medical waste”
 - CA hazardous Rx and OTC pharmaceuticals
 - Sharps waste
 - Not RCRA (federal hazardous) waste
 - Not “supplemental facts”
 - Not sent for reverse distribution

Drug Facts	
Active ingredient (in each tablet) Dibenzylamine maleate 2 mg	Purpose Antiflatulent
Uses temporarily relieves these symptoms due to hay fever or other upper respiratory allergies: ■ sneezing ■ runny nose ■ itchy, watery eyes ■ itchy throat	
Warnings Ask a doctor before use if you have: ■ glaucoma ■ a breathing problem such as emphysema or chronic bronchitis ■ trouble urinating due to an enlarged prostate gland Ask a doctor or pharmacist before use if you are taking tranquilizers or sedatives	
What to avoid while using this product ■ You may get drowsy ■ avoid alcoholic drinks ■ alcohol, sedatives, and tranquilizers may increase drowsiness ■ be careful when driving a motor vehicle or operating machinery ■ excitability may occur, especially in children	
If pregnant or breast-feeding, ask a health professional before use. Keep out of reach of children. In case of overdose, get medical help or contact a Poison Control Center right away.	
Directions	
adults and children 12 years and over	take 2 tablets every 4 to 6 hours; not more than 12 tablets in 24 hours
children 6 years to under 12 years	take 1 tablet every 4 to 6 hours; not more than 6 tablets in 24 hours
children under 6 years	ask a doctor
Other information store at 20-25° C (68-77° F) ■ protect from excessive moisture	
Inactive ingredients Cellulose, croscarmellose sodium, hydroxypropylmethylcellulose, polyethylene glycol, pregelatinized starch	

Commercial Recycling

- **Applies to businesses that generate at least 4 cubic yards of solid waste**
- **Must arrange for recycling services**
 - Self-hauling
 - Subscription to recycling service
 - Arranging for pickup
 - Mixed waste processing off-site
- **Local jurisdictions may have more stringent requirements**



Organics Recycling

- (also) Applies to businesses that generate at least 4 cubic yards of solid waste
- **Organics include**
 - Food waste
 - Green waste
 - Landscape and pruning waste
 - Nonhazardous wood waste
 - Food-soiled paper
- **Must arrange for organics recycling**
- **Local jurisdictions may have more stringent requirements**



Refrigerant Management Program

- **Applies to businesses with refrigeration systems containing more than 50 pounds of refrigerant**
- **Requirements include**
 - Conducting and reporting periodic leak inspections
 - Prompt leak repairs
 - Maintenance of service records
 - Annual reporting
- **California Cooling Act**
 - Prohibits the use of R-404A and R-507A as of January 1, 2019 (no new equipment)



Emergency Generators – Air Permitting


- **Applies to businesses that maintain emergency generators on-site**

- **May require permitting and ongoing testing and monitoring**
 - Depending on Air District
 - Size
 - Amount and type of use



Proposition 65

- **Applies to businesses with more than 10 employees**
 - Manufacturers, distributors, retailers
- **Requires consumers and employees be warned about exposures to listed chemicals**

 **WARNING:** This product can expose you to chemicals including Lead, which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov

- **Recent amendments**
 - At least one chemical must be listed, unless “short-form” is used
 - Retailers’ liability somewhat more limited

Best Practices – Staying Ahead of the Curve

- **Attend webinars like these hosted by the RCC**
- **Attend the annual CUPA conference**
- **Closely monitor CUPA inspection reports for new trends**
- **Track district attorney settlements**



Questions?

**Use the Q&A Feature in Zoom
Webinar to Pose Your Question
Directly to the Presenter**

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Please visit our blog site, [Environmental Law and Policy Monitor](https://www.environmentallawandpolicy.com/),
to learn the latest in environmental news.

<https://www.environmentallawandpolicy.com/>

RCC Resources

RCC Alert Sign-up

<http://www.retailcrc.org/alerts>

State Matrices

<http://www.retailcrc.org/RegGuidance/Pages/State-Matrices.aspx>

Environmental Regulations by Regulatory Area

<http://www.retailcrc.org/RegGuidance/Pages/regulatory-area.aspx>