

Key Environmental Compliance Issues Facing the Beauty Industry

Eco Well Sustainable Beauty E-Summit

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Beveridge
& Diamond 

Agenda

Introductions

Beauty and Personal Care Product Lifecycle

Climate and ESG Reporting Across Supply Chain

Plastic Packaging Legislation

Legal Requirements for Green Marketing

Extended Producer Responsibility

Compliance Across the Beauty & Personal Care Product Lifecycle



Responsible Sourcing	Manufacturing & Importing	Warehousing & Transportation	Product Compliance	Sale & Use	Product Issues	End-of-Life
<ul style="list-style-type: none"> Conflict Minerals Other Minerals Human Rights and Labor 	<ul style="list-style-type: none"> Facility Permitting Chemicals Management Product Specs & Testing Supplier Certifications OSHA (Micro)Plastics 	<ul style="list-style-type: none"> Dangerous Goods Packaging Reverse Logistics Hazardous Materials Workplace Safety 	<ul style="list-style-type: none"> Product Safety Material Restrictions Eco Design Energy Efficiency Recycled Content Requirements 	<ul style="list-style-type: none"> Market Access Green Marketing Prop 65 and other Warnings Procurement Packaging Requirements Labeling 	<ul style="list-style-type: none"> Recalls Enforcement Litigation 	<ul style="list-style-type: none"> Hazardous Waste Disposal EPR and Anti-Disposal Laws Responsible Recycling Basel Convention Circular Economy

Climate Change, Disclosures, and ESG

Multipliers:
 more products **x** more countries
x more regulations

A Closer Look: *Climate and ESG Reporting Trends*



Mandatory climate and ESG reporting on the rise, especially for Scope 3 emissions and human rights

- SEC regulations governing mandatory climate disclosure
- State bills and new laws
 - CA - Climate Corporate Accountability Act
 - CA - Transparency in Supply Chains Act
 - Supply chain transparency bills targeting fashion industry (NY, WA)

Increasing Investor, NGO, and Customer Pressure

Plastic Packaging Compliance Considerations



Increased regulatory developments banning single-use plastic (SUP)

Ecodesign and recycled content mandates for plastic packaging

Import of recycled materials and accessing global feedstock

- New legally binding international agreement on plastics

Microplastics (not just packaging!)

- Statewide Microplastics Strategy in California

Recycled Content Mandates

- Establishes minimum recycled content standards for products and packaging
- Effort to improve the market for recyclables
- Impacts manufacturers and retailers



Recycled Content Mandates: Examples

New Jersey

- Packaging products including plastic containers
- Increases over time from 10% to 50%
- Compliance deadlines begin in 2024

Washington

- Includes bottles for household and personal care products
- Increases over time from 10% to 50% (varying by product)
- Compliance deadlines begin in 2024

Connecticut

- Recycled content requirements for products sold in the state to be developed by December 1, 2022.

California

AB 478 Proposed
30% post-consumer recycled plastic by 2030



Green Marketing and Recyclability Claims

Environmental Marketing

- FTC watches the content of marketing materials
- Green Guides provide direction on use of environmental claims
 - Update expected in 2022
- Claims must be substantiated



Categories of Claims to Watch For

General
Environmental
Benefits

Vague terms like
"sustainability" or
"eco-friendly"

"Recycling"
"Compostable"
"Degradable" "Free
Of" "Non Toxic"

Also applies to
environmental
graphics



Recyclable



Degradable/Compostable



Non-Toxic/Free Of

Certification or Seals of Approval

Green Certification Examples

Good Example



Biodegradable
Recyclable
Compostable

If this seal is accurate, it's **not deceptive** because it lists the specific attributes that form the basis for the product's certification.

In the FTC's Green Guides, Section 260.6, example 7, there is an example for when it is impractical to clearly list all applicable attributes adjacent to the seal itself.

Bad Example



This seal **may be deceptive** because it does not convey the basis for the certification. It is highly unlikely that marketers can substantiate all the attributes implied by general environmental benefit claims. That's why marketers should only use environmental certifications or seals that convey the basis for the certification.

Successful Claims

Make narrower, more specific claims (“qualified” claims)

Disclose details clearly and prominently – make sure consumer can understand (avoid fine print and careful with hyperlinks)

Considered deceptive to represent or imply that there is a significant env. benefit if on balance, the benefit is negligible.

Avoid claims of benefits if not also disclosing an obvious or important environmental impact

Clearly identify which materials are recyclable, compostable, etc. and which are not, particularly when products contain multiple materials

Back up claims with science and maintain back up material

California SB 343

- Limits use of chasing arrows symbol or the term “recyclable”
- 60% of material and form of product can be recycled in at least 60% of the population in CA; and
- Material has a demonstrated recycling rate of at least 75%



Extended Producer Responsibility (EPR) Laws



- *EPR laws hold packaging producers accountable for costs associated with managing material in waste and recycling stream – often through contributions to a Producer Responsibility Organization (PRO)*
- First State EPR Packaging Bills to Pass
 - Maine (2021)
 - Oregon (2021)
- More to come?



Thank You!



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Key Areas of Service for the Beauty Industry

Chemical Regulation

- Product approvals for chemicals (TSCA, FIFRA, REACH)
- Pesticides and biocides in textiles
- Exposure assessments, warnings (CA Prop 65)
- PFAS issues (coatings, weather protection)
- Plastics, microplastics
- Market-access, material restrictions (RoHS)

International

- International network of local counsel and technical environmental consultants
- Multilateral environmental agreements
- China Roundtable
- Lawyers fluent in Spanish, Portuguese, Chinese

Facilities and Retail

- Air, energy, water, waste compliance
- Environmental compliance program design, training
- Project development and permitting
- Worker safety, emergency response, safety audits
- Environmental due diligence in transactions

Toxic Tort & Product Liability

- Federal and state agency enforcement defense
- Experience with complex scientific issues related to property damage and/or personal injury claims

ESG & Sustainability

- GHG emissions, climate disclosures
- ESG benchmarking, reporting, risk evaluation, enforcement defense
- NGO interaction strategies, corporate partnerships
- UN Sustainable Development Goals

Responsible Sourcing & Product Stewardship

- Supply chain due diligence, disclosures
- Forced labor/human rights, conflict minerals
- Agriculture product stewardship (seed importation, hybridization, quality)
- Sustainable packaging

Environmental Marketing & Ecolabels

- "Green" marketing (FTC Green Guides), training
- Organic and other agricultural certifications, defense against challenges
- Voluntary initiatives

Waste & Circular Economy

- State and federal regulations (RCRA, CalHWCA)
- Regional and global recycling programs
- Trans-boundary movement of waste