

Indian Arts and Crafts Board, Interior

§ 309.2

§ 308.2 Certificates of genuineness to be attached to trade-marks.

(a) To insure the widest distribution of genuine Indian handicraft products, and to protect the various enterprises organized by individual Indian craftsmen, or by groups of Indian craftsmen, for the purpose of the production and sale of such handicraft products, the Indian Arts and Crafts Board offers each such enterprise the privilege of attaching to its trademark a certificate declaring that it is recognized by the Indian Arts and Crafts Board as an Indian enterprise dealing in genuine Indian-made handicraft products, and that its trade-mark has the approval of the Board.

(b) The certificate shall consist of a border around the trade-mark bearing the words "Certified Indian Enterprise Genuine Handicrafts, U.S. Indian Arts and Crafts Board, Department of the Interior," and these words may be used wherever the trade-mark appears.

§ 308.3 Conditions of eligibility to attach certificates.

To be eligible to attach the certificate, an enterprise must meet the following conditions:

(a) It must offer for sale only Indian-made genuine handicraft products, i.e., objects produced by Indian craftsmen with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

(b) It must be entirely Indian owned and organized either by individual Indians or by groups of Indians.

(c) It must agree to apply certificates of genuineness only to such products as meet the standards of quality prescribed by the Indian Arts and Crafts Board at the time of the application of the enterprise for the privilege of attaching the certificate.

(d) It must agree to obtain the approval of the Indian Arts and Crafts Board as to the manner of production of the certificates.

§ 308.4 Revocation of privilege of attaching certificates.

If an enterprise, after securing the privilege of attaching the certificates, should fail to meet the above-named

conditions, the Board reserves the right to revoke the privilege.

PART 309—PROTECTION OF INDIAN ARTS AND CRAFTS PRODUCTS

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AUTHORITY: 18 U.S.C. 1159, 25 U.S.C. 305 *et seq.*

SOURCE: 61 FR 54555, Oct. 21, 1996, unless otherwise noted.

§ 309.1 How do the regulations in this part carry out the Indian Arts and Crafts Act of 1990?

These regulations define the nature and Indian origin of products protected by the Indian Arts and Crafts Act of 1990 (18 U.S.C. 1159, 25 U.S.C. 305 *et seq.*) from false representations, and specify how the Indian Arts and Crafts Board will interpret certain conduct for enforcement purposes. The Act makes it unlawful to offer or display for sale or sell any good in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian, or Indian tribe, or Indian arts and crafts organization resident within the United States.

§ 309.2 What are the key definitions for purposes of the Act?

(a) *Indian* as applied to an individual means a person who is a member of an Indian tribe or for purposes of this part is certified by an Indian tribe as a non-member Indian artisan (in accordance with the provisions of § 309.4).

(b) *Indian artisan* means an individual who is certified by an Indian tribe as a non-member Indian artisan.

(c) *Indian arts and crafts organization* means any legally established arts and crafts marketing organization composed of members of Indian tribes.

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(d) *Indian product*—(1) *In general.* Indian product means any art or craft product made by an Indian.

(2) *Illustrations.* The term “Indian product” includes, but is not limited to:

(i) Art works that are in a traditional or non-traditional Indian style or medium;

(ii) Crafts that are in a traditional or non-traditional Indian style or medium;

(iii) Handcrafts, i.e. objects created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

(3) *Exclusion for products made before 1935.* The provisions of this part shall not apply to any art or craft products made before 1935.

(e) *Indian tribe means—*

(1) Any Indian tribe, band, nation, Alaska Native village, or any organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

(2) Any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority.

(f) *Product of a particular Indian tribe or Indian arts and crafts organization* means that the origin of a product is identified as a named Indian tribe or named Indian arts and crafts organization.

[61 FR 54555, Oct. 21, 1996; 61 FR 57002, Nov. 5, 1996]

§ 309.3 How will statements about Indian origin of art or craft products be interpreted?

(a) *In general.* The unqualified use of the term “Indian” or of the term “Native American” or the unqualified use of the name of an Indian tribe, in connection with an art or craft product, is interpreted to mean for purposes of this part that—

(1) The maker is a member of an Indian tribe, is certified by an Indian tribe as a non-member Indian artisan, or is a member of the particular Indian tribe named; and

(2) The art or craft product is an Indian product.

(b) *Products of Indians of foreign tribes*—(1) *In general.* The unqualified use of the term “Indian” or of the term “Native American” or the unqualified use of the name of a foreign tribe, in connection with an art or craft product, regardless of where it is produced and regardless of any country-of-origin marking on the product, is interpreted to mean for purposes of this part that—

(i) The maker is a member of an Indian tribe, is certified by an Indian tribe as a non-member Indian artisan, or is a member of the particular Indian tribe named;

(ii) The tribe is resident in the United States; and

(iii) The art or craft product is an Indian product.

(2) *Exception where country of origin is disclosed.* Paragraph (b) of this section does not apply to any art or craft for which the name of the foreign country of tribal ancestry is clearly disclosed in conjunction with marketing of the product.

Example. X is a lineal descendant of a member of Indian Tribe A. However, X is not a member of Indian Tribe A, nor is X certified by Indian Tribe A as a non-member Indian artisan. X may not be described in connection with the marketing of an art or craft product made by X as an Indian, a Native American, a member of an Indian tribe, a member of Tribe A, or as a non-member Indian artisan of an Indian tribe. However, the true statement may be used that X is of Indian descent, Native American descent, or Tribe A descent.

[61 FR 54555, Oct. 21, 1996; 61 FR 57002, Nov. 5, 1996]

§ 309.4 How can an individual be certified as an Indian artisan?

(a) In order for an individual to be certified by an Indian tribe as a non-member Indian artisan for purposes of this part—

(1) The individual must be of Indian lineage of one or more members of such Indian tribe; and

(2) The certification must be documented in writing by the governing body of an Indian tribe or by a certifying body delegated this function by the governing body of the Indian tribe.

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(b) As provided in section 107 of the Indian Arts and Crafts Act of 1990, Public Law 101-644, a tribe may not impose a fee for certifying an Indian artisan.

§ 309.5 What penalties apply?

A person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States:

(a) Is subject to the criminal penalties specified in section 1159, title 18, United States Code; and

(b) Is subject to the civil penalties specified in section 305e, title 25, United States Code.

§ 309.6 How are complaints filed?

Complaints about protected products alleged to be offered or displayed for sale or sold in a manner that falsely suggests they are Indian products should be made in writing and addressed to the Director, Indian Arts and Crafts Board, Room 4004-MIB, U.S. Department of the Interior, 1849 C Street, NW, Washington, DC 20240.

PART 310—USE OF GOVERNMENT MARKS OF GENUINENESS FOR ALASKAN INDIAN AND ALASKAN ESKIMO HAND-MADE PRODUCTS

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310.5 Certificates of genuineness, authority to affix.

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310.7 Application of mark.

AUTHORITY: Sec. 3, 49 Stat. 892; 25 U.S.C. 305b. Interpret or apply sec. 2, 49 Stat. 891, as amended; 25 U.S.C. 305a.

SOURCE: 4 FR 515, Feb. 4, 1939, unless otherwise noted.

§ 310.1 Penalties.

The use of Government trade-marks in an unauthorized manner, or the colorable imitation of such marks, is subject to the criminal penalties imposed by section 5 of the said act (49 Stat. 892; 25 U.S.C., 305d), which provides:

Any person who shall counterfeit or colorably imitate any Government trademark used or devised by the Board as provided in section 305a of this chapter, or shall, except as authorized by the Board, affix any such Government trade-mark, or shall knowingly, willfully, and corruptly affix any reproduction, counterfeit, copy, or colorable imitation thereof upon any products, Indian or otherwise, or to any labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such products, or any person who shall knowingly make any false statement for the purpose of obtaining the use of any such Government trade-mark, shall be guilty of a misdemeanor, and upon conviction thereof shall be enjoined from further carrying on the act or acts complained of and shall be subject to a fine not exceeding \$2,000 or imprisonment not exceeding six months or both such fine and imprisonment.

ALASKAN INDIAN

§ 310.2 Certificates of genuineness, authority to affix.

Government marks of genuineness for Alaskan Indian hand-made products may be affixed to articles meeting the conditions specified in § 310.3 by persons duly authorized by the Indian Arts and Crafts Board to affix such marks.

§ 310.3 Conditions.

No article may carry the Government mark of genuineness for Alaskan Indian hand-made products unless all of the following conditions are met:

(a) The article is hand-made by an Alaskan Indian.

(b) The article is hand-made under conditions not resembling a workshop or factory system.

(c) All raw materials used in carving, basketry and mat making, and all furs and hides used in the manufacture of hand-made artifacts, must be of native origin.