

**§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.

(d) *Indian product*—(1) *In general.* The term “Indian product” means any art or craft product made by an Indian. For this purpose, the term “made by an Indian” means that an Indian has provided the artistic or craft work labor necessary to implement an artistic design through a substantial transformation of materials to produce the art or craft work. This may include more than one Indian working together. The labor component of the product, however, must be entirely Indian for the Indian art or craft object to be an “Indian product.”

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

(i) Art made by an Indian that is in a traditional or non-traditional style or medium;

(ii) Craft work made by an Indian that is in a traditional or non-traditional style or medium;

(iii) Handcraft made by an Indian, *i.e.* an object 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) *Examples of non-qualifying products.* An “Indian product” under the Act does not include any of the following, for example:

(i) A product in the style of an Indian art or craft product made by non-Indian labor;

(ii) A product in the style of an Indian art or craft product that is designed by an Indian but produced by non-Indian labor;

(iii) A product in the style of an Indian art or craft product that is assembled from a kit;

(iv) A product in the style of an Indian art or craft product originating from a commercial product, without substantial transformation provided by Indian artistic or craft work labor;

(v) Industrial products, which for this purpose are defined as goods that have an exclusively functional purpose, do not serve as a traditional artistic medium, and that do not lend themselves to Indian embellishment, such as appliances and vehicles. An industrial product may not become an Indian product.

(vi) A product in the style of an Indian art or craft product that is produced in an assembly line or related production line process using multiple workers not all whom are Indians. For example, if twenty people make up the labor to create the product(s), and one person is not Indian, the product is not an “Indian product.”

(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