

### § 309.19

tack, pouches, bags, and hide paintings, are Indian products.

(b) Specific examples include, but are not limited to: narrative painted hides, martingales, saddles, bonnet cases, drapes, quilts, forelocks, rosettes, horse masks, bridles, head stalls, cinches, saddle bags, side drops, harnesses, arm bands, belts, and other hand crafted items with studs and tooling.

[68 FR 35170, June 12, 2003]

### § 309.19 What are examples of pottery and ceramics that are Indian products?

(a) Pottery, ceramics, and related arts and crafts items made or significantly decorated by an Indian, including, but not limited to, a broad spectrum of clays and ceramic material, are Indian products.

(b) Specific examples include, but are not limited to: ollas, pitch vessels, pipes, raku bowls, pitchers, canteens, effigy pots, wedding vases, micaceous bean pots, seed pots, masks, incised bowls, blackware plates, redware bowls, polychrome vases, and storytellers and other figures.

[68 FR 35170, June 12, 2003]

### § 309.20 What are examples of sculpture, carving, and pipes that are Indian products?

(a) Sculpture, carving, and pipes made by an Indian, including, but not limited to, wood, soapstone, alabaster, pipestone, argillite, turquoise, ivory, baleen, bone, antler, and shell, are Indian products.

(b) Specific examples include, but are not limited to: kachina dolls, fetishes, animal figurines, pipestone pipes, moose antler combs, argillite bowls, ivory cribbage boards, whalebone masks, elk horn purses, and clamshell gorgets.

[68 FR 35170, June 12, 2003]

### § 309.21 What are examples of dolls and toys that are Indian products?

Dolls, toys, and related items made by an Indian, including, but not limited to, no face dolls, corn husk dolls, patchwork and palmetto dolls, reindeer horn dolls, lacrosse sticks, stick game articles, gambling sticks, gaming dice,

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miniature cradle boards, and yo-yos, are Indian products.

[68 FR 35170, June 12, 2003]

### § 309.22 What are examples of painting and other fine art forms that are Indian products?

Painting and other fine art forms made by an Indian including but, not limited to, works on canvas, photography, sand painting, mural, computer generated art, graphic art, video art work, printmaking, drawing, bronze casting, glasswork, and art forms to be developed in the future, are Indian products.

[68 FR 35170, June 12, 2003]

### § 309.23 Does this part apply to products made before 1935?

The provisions of this part do not apply to any art or craft products made before 1935.

[68 FR 35170, June 12, 2003]

### § 309.24 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;

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(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. Redesignated at 68 FR 35170, June 12, 2003]

### § 309.25 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.

(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.

[61 FR 54555, Oct. 21, 1996. Redesignated at 68 FR 35170, June 12, 2003]

### § 309.26 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.

[61 FR 54555, Oct. 21, 1996. Redesignated at 68 FR 35170, June 12, 2003]

### § 309.27 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.

[61 FR 54555, Oct. 21, 1996. Redesignated at 68 FR 35170, June 12, 2003]

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

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### ALASKAN ESKIMO

310.5 Certificates of genuineness, authority to affix.

310.6 Conditions.

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 trade-