

Product Responsibility Best Practices	SUBJECT Made in USA Labeling and Advertising Claims		LAST UPDATE July 2017
	APPLIES TO <ul style="list-style-type: none">• Suppliers• Distributors	FOCUS ON How to lawfully make "Made in USA" labeling and advertising claims.	
	QUICK LINKS <ul style="list-style-type: none">• PPAI Corporate Responsibility: http://ppai.org/corporate-responsibility/• UL: industries.ul.com/premiums-promotional-and-licensed-goods• Consumer Product Safety Commission: www.cpsc.gov		

Italic grey text indicates a hyperlink listed in the Online Resources section of this document.

Importance Of "Made in USA" Labeling And Advertising Regulations

It is important to understand the "Made in USA" labeling and advertising laws in order to avoid potential fines and penalties associated with false advertising and unfair business practices.

Federal Trade Commission Rule

The U.S. Federal Trade Commission (FTC) has for many years held that "products are 'Made in the USA' if '**all or virtually all of the parts of the item are made in the U.S.**'" Under the FTC rule, "all or virtually all" is a fairly unambiguous standard to interpret, and most manufacturers should understand that there is not a lot of leeway to allow for the introduction of foreign-made components or materials in a product that is going to be labeled as "Made in USA."

The House Energy and Commerce Committee approved H.R.5092 Reinforcing American-Made Products Act of 2016. H.R.5092 created a single national standard that preempts any similar state laws. This bill gives the federal government the exclusive authority to "regulate the labeling of products made in the United States and introduced in interstate or foreign commerce, and for other purposes."

Text of the bill summary at congress.gov notes, "This bill amends the Violent Crime Control and Law Enforcement Act of 1994 to require the Federal Trade Commission's regulation of the labeling of products as 'Made in the USA' or 'Made in America' to supersede any state laws regarding the extent to which a product is introduced, delivered, sold, advertised or offered for sale in interstate or foreign commerce with such a label in order to represent that the product was in whole or substantial part of domestic origin."

California's Revised Rule

Most states follow the previous FTC rule, but the state of California for many years had the country's strictest "Made in USA" regulation, which allowed products sold in California to be labeled as "Made in USA" or "Made in America" **only if 100% of the product was made in the USA.**

Beginning in September of 2015, California passed *Senate bill SB-633*, which allowed companies selling products in California to label and advertise their products as "Made in the USA" or "Made in America" so long as those products are "**mostly made in America**" (which has since been defined by California lawmakers as being "90% or more" American-made). This new rule has also created some confusion among manufacturers, importers, and distributors of consumer products sold in California as organizations will need to work closely with their vendors and keep detailed records to ensure that foreign content does not exceed more than 10 percent of the final product makeup.

Next Steps

To ensure that companies do not run afoul of the "Made in USA" rules, it is vital that suppliers and distributors have a process in place to verify that the product being labeled as "Made in USA" was indeed made in the USA with "all or virtually all" (according to the FTC Rule) or "mostly" (per the California rule) U.S. made components, materials and labor.

Action Plan For Suppliers

Suppliers should obtain a Bill of Materials ("BOM") from their factories that lists each component or part used in the making of that product, including the raw materials. The country of origin for each component and raw material should be listed on the BOM. The BOM should describe each component as a percentage of the entire finished product (usually by weight, unless another method of measurement is prescribed by industry practice or a client).

Action Plan For Distributors

Distributors can protect themselves by asking suppliers for a copy of the BOM for each item that the supplier claims to be “Made in the USA.” The distributor can also ask the supplier to provide a written acknowledgment or letter of guaranty that states that the supplier attests that the product being ordered was indeed “Made in the USA” and therefore complies with

the FTC and California Rules for “Made in USA” labeling and advertising. Both the supplier and distributor should keep a copy of this letter and the BOM in their respective technical files for future reference in case any claims or enforcement actions should arise, since these documents can be used to show compliance with the laws.

Online Resources:

PPAI Business Partner UL: <http://www.ppai.org/members/Affinity-Partners>

FTC Rule: www.ftc.gov/tips-advice/business-center/guidance/complying-made-usa-standard

California Rule: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB633

Federal Trade Commission: <https://www.ftc.gov/>

Federal Trade Commission Made In USA Standards: www.ftc.gov/tips-advice/business-center/guidance/complying-made-usa-standard

H.R.5092 – Reinforcing American-Made Products Acts of 2016: <https://www.congress.gov/bill/114th-congress/house-bill/5092/text>

California Legislature: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB633

California SB-633: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB633

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