

Take Care in Labeling Products “Made in USA”

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Many companies import materials, components or other inputs into products that they further manufacture or assemble in the United States. Whenever there is U.S. processing involved, companies may wish to label or advertise their products as “Made in USA.” However, not all products with U.S. processing can lawfully be labeled this way.

The FTC regulates labels and advertisements that suggest U.S. origin to ensure that they are truthful and not deceptive. According to Agency guidance, a product that is advertised or labeled as “Made in USA” must be “all or virtually all” made in the United States. The Agency looks to three things in determining whether goods meet this standard.

- **Location of Final Assembly.** The final assembly of the product must take place in the United States. A product that is made of all U.S. materials, but assembled in a foreign country, does not qualify for “Made in USA” labeling.
- **Manufacturing Costs.** Second, the Agency considers how much of the product's manufacturing costs are attributable to U.S. materials and labor. The Agency has not issued bright-line rules with respect to what percentage of foreign content is acceptable, but has said that foreign content should be “negligible” in a product labeled or advertised as “Made in USA.”
- **Remoteness of Foreign Content.** Where an imported input contributes substantially to the character of the finished product, “Made in USA” claims are not appropriate. For example, consider a ring made in the United States from foreign gold. The imported gold is not remote enough from the

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final product. However, a barbecue grill that includes screws made in the United States from foreign steel could qualify for “Made in USA” labeling—the foreign steel would relate to only a small, insignificant input to the finished product.

If a product does not qualify for a simple “Made in USA” claim, it may be possible to make a qualified claim, such as “Assembled in USA” or “Made in USA from Imported Parts.” For example, imported inputs may account for more than a negligible percentage of a finished product's cost, but nevertheless be subject to substantial further manufacturing or assembly operations. A claim that the finished good is “Assembled in USA” or “Made in USA from Imported Parts” would allow the manufacturer to alert consumers to the U.S. manufacturing without implying that the good in its entirety is of U.S. origin. It is also acceptable for manufacturers and distributors to make claims with respect to the percentage of U.S. content in a good—“60% U.S. content,” for example.

Finally, manufacturers and distributors of products that incorporate imported materials should know that U.S. Customs and Border Protection requires country-of-origin labeling on most goods imported into the United States, unless those goods will be further manufactured in the United States in such a way that the inputs lose their original “name, use, and essential character.” Products that are repackaged, formulated or subject only to simple assembly operations in the United States may remain subject to the foreign-origin labeling requirement. For such products, labels or advertisements that indicate a level of U.S. origin or processing would conflict with Customs' labeling rules; moreover, such labeling could well be viewed as confusing or deceptive by the FTC.