

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule, the further clarification of an existing regulatory definition of "Indian product," does not involve another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule does not involve any budgetary or entitlements issues.

(4) This rule does not raise novel legal or policy issues. Again, it is simply the further clarification of an existing regulatory definition of "Indian product."

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) A number of individuals, small businesses, and tribal governments may be affected in some way. As this rule simply clarifies an existing regulatory definition, however, it will not have a significant economic effect on any of these small entities, either through increasing compliance costs or otherwise.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more. The annual effect is insignificant.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Clarification of the term "Indian product" and guidance on how to represent Indian products in the marketplace will not cause any significant increase in the costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises. Through the clarification of the term "Indian product," the ability of U.S.-based enterprises to compete with foreign-based enterprises will not be significantly affected. In fact, it should assist U.S. Indian arts and crafts producers to compete with counterfeit

Indian arts and crafts produced overseas.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. It simply clarifies an existing regulatory definition of "Indian product." A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule does not involve government action or interference with Constitutionally protected rights.

6. Federalism (Executive Order 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule does not affect the relationship between State and federal governments. A Federalism Assessment is not required.

7. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

9. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 25 CFR 309

Indians—arts and crafts, Penalties, Trademarks.

■ For the reasons set out in the preamble, part 309 of 25 CFR Chapter II is amended as follows:

PART 309—PROTECTION OF INDIAN ARTS AND CRAFTS PRODUCTS

■ 1. The authority citation for part 309 continues to read as follows:

Authority: 18 U.S.C. 1159; 25 U.S.C. 305 *et seq.*

■ 2. In § 309.2, paragraph (d) is revised to read as follows:

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

* * * * *

(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