

Compliance Refresher For 'Made In USA' Labeling Claims

By **Caitlin Zeytoonian, Daniel Savrin and Rachel Raphael** (June 11, 2025, 3:34 PM EDT)

With tariffs reshaping the trade landscape and patriotic holidays on the horizon, companies are looking for ways to showcase their U.S. origin, presence and footprint. But while "Made in USA" claims offer powerful consumer appeal, they are subject to intense regulation and scrutiny — and missteps can result in hefty fines and penalties.

Understanding the law, its consequences and best practices today can help prevent costly legal ramifications and brand damage later.

What are Made in USA claims?

Made in USA claims, also referred to as U.S. origin claims or MUSA claims, are claims that call out or emphasize a brand, product or service's domestic origin, affiliation or presence.

Unqualified claims are for wholly American products.

Unqualified Made in USA claims are claims that a product is entirely — or almost entirely — made in the U.S. without any conditions or limitations.

Examples beyond "Made in USA" include "Created in the USA," "produced in California," "built in the USA" and "American-made." As discussed below, these claims are heavily regulated and scrutinized.

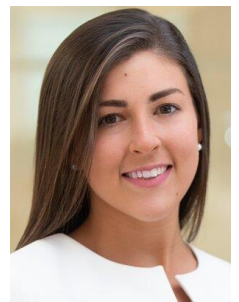
Qualified claims are for products not entirely of domestic origin.

Qualified Made in USA claims are claims accompanied by limitations, qualifiers or other explanations that describe the extent, amount or type of a product's domestic content or processing.

Unlike unqualified claims, qualified claims indicate that a product is not entirely of domestic origin. Examples include "70% U.S. content" and "Assembled in USA from Italian leather."

Claims can be made in a variety of ways.

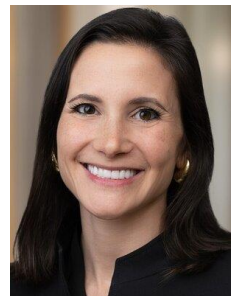
Critically, Made in USA claims need not include the words "Made in USA" or equivalent terms. They can



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also include symbols or geographic references like flags, maps or references to U.S. locations of headquarters or factories — with or without accompanying text. Also, these claims are not limited to more traditional types of marketing, such as TV commercials, radio and print ads, and digital ads.

Made in USA claims frequently take the shape of labels, product descriptions, packaging or tags. They can appear in a myriad of other representations made by or on behalf of the company, such as press releases, annual reports and interviews.

Who watches these claims, and what's at stake?

Made in USA claims are subject to various, and at times overlapping, regulations and standards. At the federal level, Made in USA claims are most notably subject to the Federal Trade Commission's Made in USA Labeling Rule, codified in Part 323 of Title 16 of the Code of Federal Regulations.

The federal rule broadly prohibits the use of unqualified Made in USA claims — that is, those without limitations or other explanations — unless all or virtually all of a product is made in the U.S. The threshold for "all or virtually all" is exceedingly high. For a product to qualify, the following conditions must be met:

- "All significant processing that goes into the product" must occur in the U.S.
- "All or virtually all ingredients or components of the product" must be made and sourced in the U.S.
- The "final assembly or processing of the product" must occur in the U.S.

This means that all significant production of parts and processing must occur in the U.S., and the product may contain only a de minimis amount of foreign content.

Of note, qualified Made in USA claims — those that specify the extent, amount or type of a product's domestic content or processing — can still be deceptive or misleading if they overstate or misrepresent the amount of a product's U.S. content or U.S. processing. In evaluating whether a qualified Made in USA claim is deceptive or misleading, it is essential to consider the overall net impression conveyed.

In other words, what does the underlying representation convey to consumers when viewed in its entirety, taking all elements and context into consideration? A qualified Made in USA claim that is factually accurate and truthful in isolation still runs the risk of misleading consumers if it is presented in conjunction with other elements, phrases or images that — when viewed as a whole — overstate or misrepresent the amount of U.S. content.

In addition, certain Made in USA claims may trigger the FTC's rule on impersonation of government and businesses from Part 461 of Title 16 of the Code of Federal Regulations, which prohibits posing as — or misrepresenting an affiliation with — any business, government entity or officer of either, whether directly or by implication.

Violations of either trade regulation carry hefty monetary penalties of up to \$53,088 per violation, which can quickly add up. Last January, the FTC imposed a \$2 million civil penalty against tractor manufacturer Kubota North America Corp. for allegedly misleading Made in USA claims it made on certain product labels for replacement parts.[1]

At the state level, Made in USA claims may also be subject to false advertising laws, general consumer protection or unfair and deceptive trade practices laws, or other state-specific laws. At the time of this publication, no state has imposed a minimum content requirement that exceeds the labeling rule's "all or virtually all" threshold.[2]

Certain states may, however, have state-specific origin labeling laws that apply to certain products. For example, in 2021, California passed A.B. 535, which restricts how companies can feature the word "California" or other references to the state on certain olive oil products.

Beyond government oversight, Made in USA claims are subject to scrutiny from consumers, competitors, industry trade associations, consumer watchdogs and self-regulatory bodies like the National Advertising Division, which provides an alternative forum for competitors to challenge one another's claims.[3]

Made in USA claims continue to be a popular target in consumer-driven class actions. In April in *Banks v. R.C. Bigelow Inc.*, a jury in the U.S. District Court for the Central District of California awarded \$2.36 million in damages to California tea buyers who brought a class action against prominent tea manufacturer Bigelow for labeling its products, which are made from imported tea leaves, as "Manufactured in the USA 100%." [4]

Additionally, Made in USA claims may be subject to — or overlap with — other laws, regulations or standards. These could include country-of-origin requirements, like those enforced by U.S. Customs and Border Protection, or product-specific requirements, like the mandatory disclosures triggered by the Automobile Information Disclosure Act.

What best practices should companies adopt if making these claims?

Below are some best practices to keep in mind when considering the use of Made in USA claims to promote your brand, product or service.

Ensure your claim is truthful and substantiated.

As with all advertising, Made in USA claims must be truthful and substantiated, i.e., provable, prior to dissemination, i.e., before they are made. This requires competent and reliable evidence to back up all reasonable interpretations of your claim.

The level of substantiation required will depend on the type and nature of the product at issue and the scope of the claim being made.

Exercise extreme caution when making unqualified Made in USA claims.

Unqualified claims are only permissible if the stringent "all or virtually all" standard is met. As a practical matter, many products sold in the U.S. do not meet this standard. If your company is seeking to use these claims, proceed with caution.

And remember — even if one product meets the "all or virtually all" standard, other products, even in the same product line, may not. Avoid making broad claims about all products or entire product lines if only some products meet the "all or virtually all" standard.

Use qualified Made in USA claims only as appropriate and avoid overstating domestic content or processing.

Qualified Made in USA claims may be suitable for products that include a significant amount of U.S. content or processing. For example, qualified claims that a particular part was manufactured in the U.S. or a specific manufacturing process was performed in the U.S. should, in addition to being truthful and substantiated, clearly refer to the specific process or part, rather than speaking generally about the product as a whole.

Of course, even qualified Made in USA claims must accurately reflect the extent to which the product was processed in, or its ingredients were sourced from, the U.S.

Remember that overall net impression matters.

When evaluating a Made in USA claim, ask yourself, "When viewed in its entirety, what might a reasonable consumer take away from this?" This requires a holistic examination of the claim and overall context, including any surrounding elements.

Maintain up-to-date internal guidance, conduct regular trainings and establish a centralized point of review for Made in USA claims.

Taking the time to establish a centralized approval process for all Made in USA claims can be a critical step in preventing marketing mishaps — particularly if your company has multiple departments or teams that are responsible for creating and releasing content.

Other critical tools to facilitate compliance and streamline processes include regular training sessions, comprehensive written policies and clear internal guidance documents.

Request information regarding domestic content from suppliers.

When relying on information from suppliers about the domestic content of parts, components and other elements they produce, request specific information about the percentage of U.S. content before making any claims.

Exercise caution when making comparative claims about U.S. content.

Comparative claims tend to draw heightened scrutiny. Before making a comparative claim about U.S. content, ensure that the claim is based on a meaningful difference or distinction.

Comparative claims must be presented in a manner that makes the basis for comparison clear. For example, a claim should communicate whether the comparison is to another brand or to a previous version of the same product.

Recognize the distinction between "Made in USA" and "Assembled in USA" claims.

Assembled in USA claims may be appropriate for a product with foreign components if the product's principal assembly takes place in the U.S. and the assembly is substantial.

Of note, for the assembly claim to be valid, a product's last substantial transformation must occur in the U.S.

Consider whether your claim conveys an affiliation with or connection to the government.

Claims that misrepresent an affiliation with a business, government entity or the officers of either, whether directly or by implication, may run afoul of the FTC's impersonation rule.

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[1] Federal Trade Commission, FTC Action Leads to \$2 Million Penalty Against Kubota for False Made in USA Claims (Jan. 26, 2024).

[2] Until 2016, California had a stricter law that essentially required 100% of a product's content to be domestically sourced in the U.S. in order to be marked as "Made in USA." The state has since rolled back the requirement, bringing California law into alignment with the FTC's "all or virtually all" standard.

[3] The National Advertising Division provides an alternative to costly litigation and has become a popular dispute resolution forum for advertisers across industries.

[4] *Kimberly Banks v. R.C. Bigelow Inc.*, No. 2:20-cv-06208 (C.D. Cal. July 13, 2020).