

**State of California  
Office of Administrative Law**

**In re:**  
**Governor's Office of Business and Economic  
Development**

**Regulatory Action:**

**Title 10, California Code of Regulations**

**Adopt sections: 8100, 8110, 8120, 8130,  
8140, 8150**

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2016-0428-01**

**OAL Matter Type: Regular (S)**

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This rulemaking action adds new Article 2 to Chapter 13 of Title 10 of the California Code of Regulations to implement Senate Bill 12, Chapter 541, Statutes of 2013. More specifically, the action creates the application process for the "Made in California Program," which enables manufacturers to apply for and be licensed by the state to represent to consumers that a product is made in California.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 6/7/2016.

Date: June 7, 2016

  
for Dale P. Mentink  
Senior Attorney

For: Debra M. Cornez  
Director

Original: Panorea Avdis, Director  
Copy: Janelle Green

**REGULAR**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	<b>NOTICE FILE NUMBER</b> 2015-0602-07 Z-2016-0218-01	<b>REGULATORY ACTION NUMBER</b> 2016-0428-015	<b>EMERGENCY NUMBER</b>
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For use by Office of Administrative Law (OAL) only

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

JUN 07 2016  
1:57 PM

2016 APR 28 P 2:23  
OFFICE OF  
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

**AGENCY WITH RULEMAKING AUTHORITY**

Governor's Office of Business and Economic Development (GO-Biz)

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER	PUBLICATION DATE
<input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn				3/4/2016	2016, 10-2

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Made in California ("CA Made")		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT 8100, 8110, 8120, 8130, 8140, 8150
	AMEND
TITLE(S) Title 10	REPEAL

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  
~~45 day - March 3, 2016 - April 18, 2016~~ 5/23/16 - 6/6/16

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)  
 Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))  Effective on filing with Secretary of State  \$100 Changes Without Regulatory Effect  Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY  
 Department of Finance (Form STD. 399) (SAM §6660)  Fair Political Practices Commission  State Fire Marshal  
 Other (Specify)

7. CONTACT PERSON Janelle Green	TELEPHONE NUMBER 916-322-0564	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) janelle.green@gov.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 4/28/2016
TYPED NAME AND TITLE OF SIGNATORY Panorea Avdis, Director	

For use by Office of Administrative Law (OAL) only  
**ENDORSED APPROVED**  
JUN 07 2016  
Office of Administrative Law

**Made in California ("CA Made") Regulations - NEWLY ADOPTED TEXT**

**Article 2, of Chapter 13, of Title 10 of the California Code of Regulations is adopted to read:**

**Chapter 13. Governor's Office of Business and Economic Development  
Article 2. Made in California Program**

**§ 8100. Definitions.**

For purposes of this article, the following definitions shall apply:

- (a) "Applicant" means any sole proprietor, corporation, partnership, or any other business entity type applying for the CA Made license that is legally authorized to do business in California.
- (b) "Application" means the request by an applicant for the CA Made license by submitting the information as specified in the application form.
- (c) "Application form" means the form designated by GO-Biz, which shall contain the information requested in Section 8110(d) and shall be available on the website.
- (d) "CA Made label" means an authorized seal designated by GO-Biz that represents that the product is certified as CA Made pursuant to the program.
- (e) "Certification" or "certified" means a determination made by a third-party certifier that the product is in compliance with the program.
- (f) "Certification form" means the form designated by GO-Biz on the website completed by a third-party certifier stating that the product(s) meet(s) the requirements of the program.
- (g) "Certification term" means three years beginning on the date of execution of the licensing agreement.
- (h) "Direct labor cost" means salaries paid to workers who are directly involved in the production of goods or services. Direct labor costs are assignable to a specific product, cost center, or work center.
- (i) "Direct material cost" means the cost of all items such as raw materials, standard and specialized parts, and sub-assemblies required to assemble or manufacture a complete product and can be easily identified with the product.
- (j) "Familiar" means has sufficient knowledge about the supply chain of the specified

product(s) to verify the source of the product components in order to perform a third-party regulatory audit as set forth in Government Code section 12098.10 et seq.

- (k) "Fee" means the annual CA Made fee charged to licensees by GO-Biz.
- (l) "GO-Biz" means Governor's Office of Business and Economic Development.
- (m) "Indirect labor cost" means salaries paid to workers to support the production process, but which is not directly involved in the active conversion of materials into finished products.
- (n) "Indirect material cost" means the cost of materials used in the production process, but which cannot be linked to a specific product or job.
- (o) "License" means the right to use the CA Made label as permitted by GO-Biz in the licensing agreement.
- (p) "Licensee" means an applicant who has entered into a licensing agreement with GO-Biz for the use of the CA Made label.
- (q) "Licensing agreement" means the agreement between a licensee and GO-Biz describing the terms and conditions of using the license.
- (r) "Product" means a final, recognizable good or service that has been created by a value-added process.
- (s) "Program" means the CA Made program created by Government Code section 12098.10 et seq.
- (t) "Research and development" means work directed toward the innovation, introduction, and improvement of products and processes.
- (u) "Salary" means the amount of monetary compensation that is paid to a worker in return for work performed but does not include tips, overtime, bonuses, benefits, or other compensation of any kind.
- (v) "Supply chain" means a system of organizations, people, activities, information, and resources involved in moving the product from supplier to customer.
- (w) "Third-party certifier" means a qualified third-party as defined by the program who is legally and financially separate from the applicant, familiar with the product(s) being certified, and is legally authorized to do business in California.
- (x) "Website" means GO-Biz's designated website.

- (y) "Wholesale value" includes the direct material cost, direct labor cost, and overhead (indirect material and indirect labor costs), as described in Section 8120(c)(1).

Note: Authority cited: Sections 12098.10 and 12098.11, CA Government Code.

Reference: Sections 12098.10 and 12098.11, CA Government Code.

**§ 8110. Application Process for CA Made Label.**

- (a) Applications shall be accepted by GO-Biz on a rolling basis. GO-Biz shall review, finalize, and execute licensing agreements at the beginning of each quarter.
- (b) Applications shall be submitted online.
- (c) Applicants shall create an account profile and establish a login and password as designated on the website.
- (d) Applicants shall be asked to provide the following information on the application form:
  - (1) Contact information (legal entity business name, fictitious business name, contact name, primary business address in California, phone number, email address, and website);
  - (2) Type of business entity (sole proprietorship, corporation, limited liability company, limited partnership, general partnerships, or limited liability partnership);
  - (3) Whether the applicant is legally authorized to do business in California;
  - (4) Product(s) for which the applicant is seeking the CA Made label, categories the product(s) fall(s) under, and a brief description of the product(s);
  - (5) Uploaded photo(s) of the product(s);
  - (6) Uploaded certification form signed by a third-party certifier for the product(s) described;
  - (7) Any other information on their product(s) for marketing purposes; and,
  - (8) Business biography for website listing.
- (e) Applicant authorizes GO-Biz to use product information, product photos, and business biographies on the website and in any other CA Made marketing materials developed or approved by GO-Biz (i.e., CA Grown, Visit California, etc.).

- (f) Applicant gives GO-Biz permission to alter the style and format of marketing materials. GO-Biz shall not alter the content of the marketing materials without written permission from the applicant.
- (g) Applicant shall represent and warrant that all statements in the application are true and complete to the best of the applicant's knowledge. GO-Biz may ask an applicant to provide supplemental information that substantiates the information provided in the application.

Note: Authority cited: Sections 12098.10 and 12098.11, CA Government Code.  
Reference: Sections 12098.10 and 12098.11, CA Government Code.

**§ 8120. Certification Process for CA Made Label.**

- (a) Applicants shall provide the CA Made certification form to a third-party certifier.
- (b) Third-party certifier shall determine whether the product(s) satisfies the definitions of "Made in U.S.A." and "substantially made" in California as set forth in the program. The determination of whether the product(s) is "substantially made" in California may be made by calculating the value added share of the product pursuant to subdivision (c).
- (c) The California value added share of the product(s) shall be calculated based on the California wholesale value of the product(s) and total product cost as described below.
  - (1) The California wholesale value shall be determined by summation of the following costs:
    - (A) California direct and indirect material costs; and,
    - (B) California direct and indirect labor costs.
  - (2) The total product cost shall be determined by summation of:
    - (A) California wholesale value, as described in Section 8120(c)(1);
    - (B) Direct and indirect material cost from outside California; and,
    - (C) Direct and indirect labor cost from outside California.
  - (3) The California value added share is equal to the California wholesale value divided by the total product cost.
  - (4) The California value added share may not include research and development.

- (d) Third-party certifiers may determine whether a product(s) satisfies the program's requirements by reviewing the following materials from the applicant: approved budgets, invoices, and any other documents, computerized data, and other writings, whether handwritten, typewritten, printed, copied, or electronically stored to verify the origin of materials in California or the United States. This list is not a prescriptive or exhaustive list of the materials a third-party certifier must rely upon.
- (e) Third-party certifiers shall be asked to provide all of the following information as directed on the certification form:
  - (1) Applicant information (legal entity business name, fictitious business name, owner name, primary business address in California, phone number, and email);
  - (2) Third-party certifier information (legal entity business name, fictitious business name, address, phone number, and email);
  - (3) Acknowledgement, in the form of a "yes" or "no" response, from third-party certifier that they meet the program's requirements for third-party certifiers and a brief description of how those requirements have been met;
  - (4) Name of product(s) to be certified;
  - (5) Brief description of product(s) for which the applicant is seeking to obtain a CA Made license;
  - (6) Description of the documents reviewed to perform the certification;
  - (7) Acknowledgement, in the form of a "yes" or "no" response, that the product(s) listed in Section 8120(e)(4) meet(s) the program's requirements for certification; and,
  - (8) Dated third-party certifier signature verifying that all content on the certification form is true and correct to the best of his/her knowledge based on the information provided by the applicant.
- (f) The applicant shall submit the certification form to GO-Biz electronically by uploading a scanned copy of the signed certification form to his/her application on the CA Made website.

Note: Authority cited: Sections 12098.10 and 12098.11, CA Government Code.  
Reference: Sections 12098.10 and 12098.11, CA Government Code.

**§ 8130. Application Review, Rejection, Approval, and Renewal Processes.**

- (a) Upon receipt of an application, GO-Biz shall:

- (1) Review the application for completeness; and,
  - (2) Notify applicant of any deficiencies if appropriate.
- (b) If an applicant intends to revise a portion of a previously submitted application form, the applicant shall either revise his/her application or withdraw the application and submit a new application. An applicant may revise or withdraw an application form at any time on the website prior to execution of a licensing agreement for the product(s).
  - (c) If an application is rejected, GO-Biz shall inform the applicant of the rejection by email and the applicant's right to reapply for the license. There is no appeals process.
  - (d) If the application is approved, GO-Biz shall:
    - (1) Prepare a licensing agreement between GO-Biz and the applicant, which shall set forth the rights and limitations of use of the CA Made label.
    - (2) Impose the fee to the licensee based on Section 8150(c).
    - (e) GO-Biz will fully execute the licensing agreement once GO-Biz receives payment of the fee and the licensee executes the licensing agreement. Fees are not refundable at any time.
    - (f) Any changes to the information submitted in Section 8110(d) after the execution of a licensing agreement must be reported by the licensee to GO-Biz within 30 days by updating their account profile on the website. GO-Biz reserves the right to approve any changes to the account profile before they are published on the website. Changes that are inconsistent with the executed licensing agreement will result in termination of the licensing agreement and will require a new application.
    - (g) Once the certification term ends, the licensing agreement expires and the license becomes invalid.
    - (h) An applicant may renew a license by submitting a new application.

Note: Authority cited: Sections 12098.10 and 12098.11, CA Government Code.  
Reference: Sections 12098.10 and 12098.11, CA Government Code.

**§ 8140. CA Made Licensing Agreement and CA Made Label Usage.**

- (a) The website and the licensing agreement will identify the CA Made label that will be provided to licensees by GO-Biz.

(b) The CA Made label may be used by licensees for certified products pursuant to the rights and limitations as described in the licensing agreement, which shall include, but not be limited to:

(1) Use on the product, product containers, in point-of-purchase or other displays, and in advertising;

(2) Not be incorporated into any business, company or product logo or label; and,

(3) Not be its own mark or the exclusive representation of the product.

(c) If a licensee's particular use of the CA Made label is inconsistent with the licensing agreement, GO-Biz may terminate the licensing agreement or require the licensee to discontinue that particular use of the CA Made label.

Note: Authority cited: Sections 12098.10 and 12098.11, CA Government Code.

Reference: Sections 12098.10 and 12098.11, CA Government Code.

**§ 8150. Fee Imposition, Structure, and Management.**

(a) Upon application approval, GO-Biz shall assess a fee on all licensees.

(b) The fee shall be determined for each licensee based on the number of products that are included in an approved application.

(c) The fee shall be one hundred dollars (\$100.00) for the first product in an approved application and twenty-five dollars (\$25.00) for each additional product not to exceed a total of one hundred and fifty dollars (\$150.00) from a single approved application.

(d) The fee will be imposed on an annual basis commencing on the date when an application is approved and on the same date each following year while the license remains valid.

(e) GO-Biz will collect and deposit all fees in the Made in California Fund.

Note: Authority cited: Sections 12098.10 and 12098.11, CA Government Code.

Reference: Sections 12098.10 and 12098.11, CA Government Code.