

Legal News is part of our ongoing commitment to providing legal insight to our Food Industry clients and colleagues. If you have any questions about this newsletter or would like to discuss this topic further, please contact your Foley attorney or any of the following individuals:

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New Food Safety Requirements Signed into Law

On September 27, 2007, President Bush signed into law the U.S. Food and Drug Administration (FDA) Amendments Act, a measure that focuses largely on prescription drug safety and reauthorizes FDA's user fee programs. However, the Act also attempts to address certain human and pet food safety concerns. A brief overview of the key food safety provisions can be found below.

Adulterated Food Registry

- The Federal Food, Drug and Cosmetic Act is amended to allow for the establishment of an "Adulterated Food Registry."
- The Registry, which will be established through regulations to be issued by the Secretary of the U.S. Department of Health and Human Services (HHS), is intended to provide a reliable mechanism to track patterns of adulterated food and to facilitate the submission of information concerning instances of "reportable adulterated food" to FDA. The term "reportable adulterated food" is defined as "a food that is adulterated or presents a situation in which there is a reasonable probability that the use of, or exposure to, a violative product will cause serious adverse health consequences or death . . .". Instances of reportable adulterated food will be submitted to FDA, via an electronic portal, from any of the following: 1) federal, state, and local public health officials; 2) an importer; 3) a responsible party; or 4) a consumer or other individual.
- The Secretary is authorized to review and determine the validity of information submitted in connection with a reportable adulterated food incident and to issue an alert concerning the adulterated food in instances where the Adulterated Food Registry shows that the food has been associated with repeated and separate outbreaks of illness or has been repeatedly determined to be adulterated or is a reportable adulterated food as defined by the statute.

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- The Adulterated Food Registry provision also will require any importer or "responsible party," which is defined as any food facility registered with FDA pursuant to the Bioterrorism Act, to rapidly report incidents of reportable adulterated food to FDA and other parties directly linked to that food in the supply chain.

Efficient and Effective Communication During Recalls

- During ongoing recalls of human or pet food, the Secretary is directed to work with companies, relevant associations, and other groups to collect and aggregate information pertaining to the recall. Additionally, the Secretary is to use existing networks of communication to enhance the quality and speed of communication with the public and to post information regarding recalled food products on FDA's website in a consolidated, searchable form that is easily accessed and understood by the public.

Pet Food

- The Secretary is directed to establish regulations governing (1) processing and ingredient standards with respect to pet food, animal waste, and ingredient definitions; and (2) updated standards for the labeling of pet food that include nutritional information and ingredient information.
- The Secretary also is directed to issue regulations to establish an early warning and surveillance system to identify adulteration of the pet food supply and outbreaks of illness associated with pet food.