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FDA Publishes Final Rule Requiring Additional Traceability Records for Certain Foods

The U.S. Food and Drug Administration (FDA) published a final rule creating additional recordkeeping requirements for foods listed on the [Food Traceability List](#).

The final rule was published in the [Federal Register](#) on November 21, 2022, and is effective on January 20, 2023. The compliance date is January 20, 2026.

The purposes of the rule are to:

- Minimize foodborne illness outbreaks.
- Reduce harm to public health.
- Enable companies and regulators to identify parties that received adulterated food with increased speed and efficiency.
- Quickly remove contaminated food from the market.

The benefits of the rule include the following:

- Reducing costs associated with overly broad food recalls.
- Increasing food supply chain efficiency.
- Increasing consumer confidence in the food market.

Foods listed on the Food Traceability List are foods that have a heightened risk of carrying foodborne illnesses. These include soft cheeses, eggs, nut butters, vegetables, herbs, fruit, seafood, and deli salads.

The additional recordkeeping requirements are termed Key Data Elements. Any entity that processes, packs, or holds foods listed on the Food Traceability List must record Key Data Elements. Key Data Elements vary based on the entity's role in the food supply chain.

Takeaway

Companies that handle any food listed on the Food Traceability List are encouraged to contact experienced counsel to discuss additional nuances of the new rule, including exemptions and strategies to achieve compliance in a cost-effective manner.

The author wishes to acknowledge Law Clerk Jordan Lee's contributions to this Update.

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