
Congress Amends the Federal Rules of Evidence Concerning Privilege

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On September 19, 2008, President Bush signed into law an Act (S. 2450) amending the Federal Rules of Evidence to address waiver of the attorney-client privilege and work product protection. The bill added to the Federal Rules of Evidence a new rule -- Rule 502 -- which in general provides that inadvertent disclosure of protected material (i) does not effect a subject matter waiver and (ii) will not effect a waiver as to the document produced itself so long as the holder of the privilege took reasonable steps to prevent disclosure and takes reasonable steps to rectify the error once discovered.

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