

DEAN FOODS CO
Form S-8
August 28, 2007

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As filed with the Securities and Exchange Commission on August 28, 2007

Registration No. 333-_____

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM S-8
REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933
Dean Foods Company
(Exact Name of Registrant as Specified in Its Charter)**

Delaware
(State or Other Jurisdiction of Incorporation or
Organization)

75-2559681
(I.R.S. Employer Identification No.)

**2515 McKinney, Suite 1200
Dallas, Texas 75201**
(Address, Including Zip Code, of Principal Executive Offices)

Dean Foods Company 2007 Stock Incentive Plan
(Full Title of the Plan)

Michelle P. Goolsby
**Executive Vice President, Chief Administrative Officer
and General Counsel**
Dean Foods Company

**2515 McKinney Avenue, Suite 1200
Dallas, Texas 75201**
(Name and Address of Agent For Service)
(214) 303-3400

(Telephone Number, Including Area Code, of Agent For Service)

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price Per Share(2)	Proposed Maximum Aggregate Offering Price(2)	Amount of Registration Fee
Common Stock, \$0.01 par value per share (including the associated Stock Purchase Rights)	6,000,000	\$27.74	\$166,440,000	\$5,109.71

(1) In accordance with Rule 416 under the Securities Act of 1933, as amended (the Securities Act),

this registration statement shall be deemed to cover any additional securities that may from time to time be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.

- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of the Securities Act, and based upon the average of the high and low prices of the Registrant's Common Stock as reported on the New York Stock Exchange on August 22, 2007.

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PART I
INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.

The information required by Item 1 is included in documents sent or given to participants in the plans covered by this registration statement pursuant to Rule 428(b)(1) of the Securities Act.

Item 2. Registrant Information and Employee Plan Annual Information.

The written statement required by Item 2 is included in documents sent or given to participants in the plans covered by this registration statement pursuant to Rule 428(b)(1) of the Securities Act.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

Dean Foods Company (the Registrant) is subject to the informational and reporting requirements of Sections 13(a), 14, and 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act), and in accordance therewith files reports, proxy statements and other information with the Securities and Exchange Commission (the Commission). The following documents, which are on file with the Commission, are incorporated in this registration statement by reference:

- (a) Annual Report on Form 10-K for the fiscal year ended December 31, 2006, which contains the Registrant's audited financial statements for the Registrant's last completed fiscal year.
- (b) Quarterly Reports on Form 10-Q for the periods ended March 31, 2007, and June 30, 2007.
- (c) Current Reports on Form 8-K filed on March 2, 2007, and April 4, 2007.
- (d) The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-A, dated February 19, 1997 (File Number 001-12755), including any amendment or report filed for the purpose of updating such description.
- (e) The description of the Registrant's Common Stock purchase rights contained in the Registrant's Registration Statement on Form 8-A, dated March 10, 1998 (File Number 001-12755), as amended by the Registration Statement on Form 8-A/A, dated May 27, 2004, including any other amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be part hereof from the date of the filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this registration statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

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Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Certain legal matters with respect to the validity of the Common Stock will be passed upon for us by Steven J. Kemps, our Senior Vice President, Deputy General Counsel and Corporate Secretary. As of August 22, 2007, Mr. Kemps owns 200 shares of Common Stock. In addition, Mr. Kemps holds options to purchase 63,923 shares of Common Stock, of which 9,797 are vested, and 19,103 restricted stock units.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law (DGCL) empowers a Delaware corporation to indemnify any persons who were or are, or are threatened to be made, parties to any threatened, pending or completed legal action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), by reason of the fact that such person is or was a director, officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding; *provided, that*, such officer or director acted in good faith and in a manner he reasonably believed to be in or not opposed to the corporation s best interests, and, for criminal proceedings, had no reasonable cause to believe his conduct was illegal. A Delaware corporation may indemnify officers and directors in an action by or in the right of the corporation under the same conditions, except that no indemnification is permitted without judicial approval if the officer or director is adjudged to be liable to the corporation in the performance of his duty. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him against the expenses which such officer or director actually and reasonably incurred.

Our restated certificate of incorporation, as amended, provides that we shall indemnify our directors and officers to the fullest extent authorized by the DGCL as it exists or as it may be amended to provide broader indemnification rights than previously permitted. However, we will indemnify a director or officer in connection with a proceeding initiated by the director or officer only if the proceeding was authorized by our board of directors. We will indemnify the director or officer for expenses incurred in defending any proceeding in advance of final disposition of the proceeding, which we refer to as advancement of expenses, provided that, if required by the DGCL, we will advance these expenses only if the director or officer delivers an undertaking to repay the amounts advanced if it is ultimately determined by non-appealable judicial decision that the director or officer is not entitled to be indemnified. These rights to indemnification and advancement of expenses are non-exclusive.

We also maintain insurance coverage relating to certain liabilities of directors and officers.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The Exhibit Index immediately preceding the exhibits is incorporated herein by reference.

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Item 9. Undertakings.

1. *Item 512(a) of Regulation S-K.* The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; *provided, however*, that paragraphs (i) and (ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

2. *Item 512(b) of Regulation S-K.* The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

3. *Item 512(h) of Regulation S-K.* Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dallas, State of Texas, on this 28th day of August, 2007.

DEAN FOODS COMPANY

By: /s/ Ronald L. McCrummen
 Ronald L. McCrummen
Senior Vice President and Chief Accounting Officer

POWER OF ATTORNEY AND SIGNATURES

We, the undersigned officers and directors of Dean Foods Company, hereby severally constitute and appoint Gregg L. Engles, Michelle P. Goolsby, Ronald L. McCrummen and Steven J. Kemps, and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, the registration statement on Form S-8 filed herewith and any and all subsequent amendments to said registration statement, and generally to do all such things in our names and on our behalf in our capacities as officers and directors to enable Dean Foods Company to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys, or any of them, to said registration statement and any and all amendments thereto.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Gregg L. Engles Gregg L. Engles	Chief Executive Officer and Chairman of the Board (Principal executive officer)	August 28, 2007
/s/ Jack F. Callahan, Jr. Jack F. Callahan, Jr.	Executive Vice President and Chief Financial Officer (Principal financial officer)	August 28, 2007
/s/ Ronald L. McCrummen Ronald L. McCrummen	Senior Vice President and Chief Accounting Officer (Principal accounting officer)	August 28, 2007
/s/ Alan J. Bernon Alan J. Bernon	Director	August 28, 2007

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Signature	Title	Date
	Director	
Lewis M. Collens		
/s/ Tom C. Davis	Director	August 28, 2007
Tom C. Davis		
/s/ Stephen L. Green	Director	August 28, 2007
Stephen L. Green		
/s/ Joseph S. Hardin, Jr.	Director	August 28, 2007
Joseph S. Hardin, Jr.		
/s/ Janet Hill	Director	August 28, 2007
Janet Hill		
/s/ Ronald Kirk	Director	August 28, 2007
Ronald Kirk		
	Director	
John R. Muse		
/s/ Hector M. Nevares	Director	August 28, 2007
Hector M. Nevares		
/s/ Pete Schenkel	Director	August 28, 2007
Pete Schenkel		
/s/ Jim L. Turner	Director	August 28, 2007
Jim L. Turner		

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Number	Description
4.1	Rights Agreement dated March 6, 1998 among the Registrant and Harris Trust & Savings Bank, as rights agent (incorporated by reference from the Registration Statement on Form 8-A filed on March 10, 1998 (File No. 1-12755)).
4.2	Amendment No. 1 to Rights Agreement dated May 26, 2004 by and between the Registrant and The Bank of New York, as rights agent (incorporated by reference from the Registration Statement on Form 8-A/A filed on May 27, 2004 (File No. 1-12755)).
5	Opinion of Steven J. Kemps, Deputy General Counsel of Dean Foods Company.
23.1	Consent of Steven J. Kemps, Deputy General Counsel of Dean Foods Company (included in Exhibit 5).
23.2	Consent of Deloitte & Touche LLP.
24	Power of attorney (included on the signature pages of this registration statement).