

# Top Legal Issues Facing Organic Agriculture



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Vol. 1

Agronomy Day, August 16, 2007

## The "Walmart Effect"

*The "Walmart Effect" embodies the growing divide between "Big Organic" and "Organics as Religion." Walmart's entry into the market raises questions regarding the industrialization of organic retailing and the internationalization of production. Although this may increase the total acreage under organic management and reduce prices, it may drive out smaller, local producers.*

### Fraud Overseas

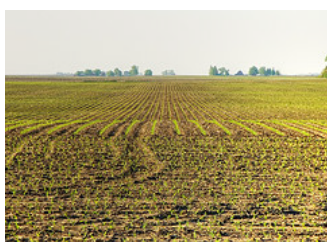
Concerns with organic fraud are amplified as the supply chain extends beyond the nation's borders. 40% of organic food sold in the US is produced overseas. Oversight at the international level, especially in developing countries, may be lax or non-existent.



list procedures for addition. Mandatory sunset review of current national list items may signal the direction of organics and the success of small ingredient producers.

### Genetic Engineering

Adventitious presence has drastic commercial consequences. EU proposed



### Food Miles

For one interesting litigation scenario that may be unfolding regarding the possible incorporation of food mile standards in the Soil Association's (UK) organic certification requirements, and reliance of Kenyan farmers on existing standards, see the recent Observer report "Kenyan Fury at Threat to Organic Trade," July 15, 2007.



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### Fraud in the Organic Marketplace

The attributes associated with the organic label create a brand image justifying increased prices. Failure to enforce NOP standards may weaken the brand image of "organics" leading to loss of these price premiums.

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### Animal Welfare

Increased demand for organic meat and dairy products pressures producers to introduce efficiencies and economies of scale commonly found in conventional production, pushing the limit of society's acceptance of current organic standards.

### Commercial Availability and the National List

Growing demand for organic processed food may present sourcing problems. Items not commercially available in organic form may be substituted at the 5% level. The battle for commercial availability pits niche producers against large organic food processors. As of June 2007, commercial availability must go through national

thresholds influence some large processors/retailers in the US, but tolerances may create a movement for other mandatory product testing and dilute claims of superiority via genetic purity.

### Labor

Although social justice was a powerful theme in the early organic movement, OFPA did not codify labor practices. Although fair labor standards are unlikely to be incorporated in the NOP, consumer demand along the lines of the fair trade movement may develop along side the organic label.

### For More Information

see Professor Endres' most recent article titled "An Awkward Adolescence in the Organics Industry: Coming to Terms with Big Organic and Other Legal Challenges for the Industry's Next Ten Years, 12 Drake J. Agric. L. (2007).