



## Federal Regulation of Organic Food: A Research Guide for Legal Practitioners and Food Industry Professionals

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### I. INTRODUCTION

#### 1. THE TOPIC

Grocery shopping has become a confusing experience. The four basic food groups have been replaced by food that is organic, natural, free-range, trans-fat free, preservative free, low-fat, non-fat, genetically modified, low-carb, and low-cholesterol. While not all of these categories are well regulated, Congress passed the Organic Foods Production Act of 1990 (OFPA), 7 U.S.C. §§ 6501-6522, P.L. 101-624, Title XXI, to define and establish standards for foods marketed as organic. Such action became necessary because private groups and some states had developed their own third-party organic certification systems; discrepancies among these systems confused producers and consumers and hindered interstate commerce.<sup>1</sup>

On December 21, 2000, the USDA promulgated a final rule implementing OFPA, 7 C.F.R. §205, by creating the National Organic Program (NOP)<sup>2</sup> to develop and enforce nationwide standards for the production, handling, and marketing of organic agricultural products. Based on the recommendations of the National Organic Standards Board (NOSB), a 15-member body appointed by the Secretary of Agriculture, the NOP developed standards and created an organic certification program enforced through a system of USDA-accredited agents who were to require full compliance from producers and handlers by October 21, 2002.<sup>3</sup> NOP compliance encompasses adherence to its production, handling, labeling, certification, accreditation and import standards for any agricultural product sold or represented as organic.<sup>4</sup> In general, these standards: (1) prohibit the use of genetic engineering, ionizing radiation, and sewage sludge; (2) permit all natural, non-synthetic substances; and (3) prohibit all synthetic substances.<sup>5</sup>

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<sup>1</sup> Pittman, A Legal Guide to the National Organic Program (National AgLaw Center Publications) (2004) [http://www.nationalaglawcenter.org/assets/articles/pittman\\_organicprogram.pdf](http://www.nationalaglawcenter.org/assets/articles/pittman_organicprogram.pdf)

<sup>2</sup> The NOP is a marketing program housed within the USDA Agricultural Marketing Service, governing all stages of organic production and handling. See <http://www.ams.usda.gov/nop/indexNet.htm>

<sup>3</sup> For an excellent summary of OFPA, NOSB, and NOP background information, see <http://www.ams.usda.gov/nop/FactSheets/Backgrounder.html>

<sup>4</sup> See *id.*

<sup>5</sup> See *id.*

Once a small niche in the agricultural market, organically produced foods are becoming increasingly mainstreamed. Consumer interest and the establishment of national standards indicate that the market for organic agriculture will continue to expand rapidly in the United States. In fact, throughout the past decade, consumer demand has risen 20 percent or more annually, and organic products account for roughly two percent of total food sales in the U.S.<sup>6</sup>

## 2. SCOPE

This research guide explores strategies and resources for researching federal regulation of organic food beginning with the passage of the Organic Foods Production Act of 1990. The narrow focus of this guide is on the development of the current state of federal law, and not on the pre-1990 history of organic food regulation or individual state regulation.

The intended reader of this guide is one who is fairly familiar with basic legal concepts and research methods, including law students and attorneys. However, certain sections, such as those devoted to non-fee internet sources and books, may also be useful to agriculture industry professionals. While law school students often have free, unlimited access to Westlaw and Lexis online databases, practitioners generally do not. Accordingly, whenever possible, this guide provides several potential means for finding the same materials. In so doing, this guide explores a variety of primary and secondary sources, and emphasizes the use of the internet.

Federal regulation of organic food is a topic **dominated by administrative and statutory materials**. Since federal regulations replaced private certification systems only a few years ago, traditional legal sources are somewhat less useful for this topic than for others. Moreover, federal regulation of organic food is an inter-disciplinary topic that involves law, agriculture and agribusiness, as well as environmental concerns, animal welfare issues, and socio-economic matters. Accordingly, this research guide is tailored specifically to the topic and should not be relied on as a general legal research guide.

At present, there is little relevant case law on the topic. However, it is likely that the full implementation of regulations will prompt an onslaught of litigation as producers, handlers, consumers, and certifiers seek the courts' guidance in interpreting OFPA and the NOP. As such, this guide fully explores methods for locating all different types of sources, from those that currently dominate the topic (statutory and administrative materials, government documents, legal and non-legal periodicals, and internet resources) to those that may become increasingly important in the future (case law and legal treatises). This guide is not merely an annotated bibliography, which can become outdated rather quickly, but rather a handbook of strategies that researchers of federal regulation of organic law can use today, or ten years from today.





## 3. HOW TO USE THIS GUIDE

This guide is structured to provide an in depth overview to research strategies and sources most useful to federal regulation of organic food. To that end, this guide presents the most relevant materials first. Each section is devoted to a particular type of resource, such as case law

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<sup>6</sup> Catherine Greene & Amy Kremen, U.S. Organic Farming in 2000-2001: Adoption of Certified Systems, Economic Research Service/USDA/AIB-780 (Feb. 2003), available at <http://www.ers.usda.gov/publications/aib780/>

or statutory materials, and starts with an Overall Usefulness Rating for that resource genre. The ratings are based on the following scale:

	Most useful
	Very useful
	Somewhat useful
	Marginally useful

The Overview section, which follows the Overall Usefulness Rating, describes the resource genre and explains its relative importance to this topic. The Rapid Results portion is next; it provides users who are short on time with quick tips on how to find relevant materials for a particular type of resource. Then, each section details various research methods for locating resources, and provides an annotated list of the most useful specific materials.

#### 4. NO TIME TO SPARE: THE THREE BEST RESOURCES

Although this guide is meant to provide comprehensive coverage of the best methods and sources for researching this topic, there are a few materials/resources that are particularly helpful. So, if pressed for time, consult:

##### 4.1. A Legal Guide to the National Organic Program

Harrison M. Pittman

The National Agricultural Law Center (2004)

60 p.

Available at no cost at:

[http://www.nationalaglawcenter.org/assets/articles/pittman\\_organicprogram.pdf](http://www.nationalaglawcenter.org/assets/articles/pittman_organicprogram.pdf)

This electronic document, authored by a staff attorney from the National Agricultural Law Center of the University of Arkansas School of Law, provides an overview of the National Organic Program **written specifically for legal practitioners**. It discusses the intricacies of certification, exemptions, exclusions, recordkeeping requirements, permitted/prohibited substances, livestock production and handling requirements, use of the term “organic,” on-site inspections, accreditation of certifying agents, and compliance requirements. Since the publication is heavily footnoted with references to primary law, it also introduces the reader to the statutory/administrative bases for federal regulation. It is important to note that this electronic document is just one of many useful resources provided by the University of Arkansas’s National Agricultural Law Center (<http://www.nationalaglawcenter.org/>).

##### 4.2. The National Organic Program Website

[www.ams.usda.gov/nop/](http://www.ams.usda.gov/nop/)

The official website of the USDA’s National Organic Program offers comprehensive, highly credible, up-to-the-minute information on this topic. Since the website is geared to a diverse audience of organic food producers and consumers, as well as legal practitioners and policymakers, the information is clearly presented, yet quite specific and detailed.

#### 4.3. AGRICOLA


<http://agricola.nal.usda.gov/>

AGRICOLA is the bibliographic database of agricultural literature created and collected by the National Agricultural Library (NAL). The materials cited and described in the database address every facet of agriculture, including organic food regulation. Despite the fact that AGRICOLA does not provide documents in their entirety, many records provide hypertext links to materials that are available online in full-text. Since AGRICOLA is searchable on the World Wide Web, it can be used by those without access to commercial sources like Westlaw and Lexis.

## II. BOOKS & RELATED MATERIALS


### 1. OVERALL USEFULNESS RATING

Government Publications and Materials: 

Treatises, Books and Books with Bibliographies: 

Non-Government Electronic Publications & Computer Files: 

Dissertations: 

Bar & CLE Materials: 

Looseleaves: 

### 2. OVERVIEW

Books and related materials pull together, analyze and synthesize different facets of the state of the law in a given area. They not only introduce the researcher of this topic to the core concepts of federal regulation, but also provide references and citations to primary sources and other secondary sources through footnotes and bibliographies.

Books and related materials come in many forms, including but not limited to: legal treatises, traditional non-legal books, books that are bibliographies, government materials, dissertations, CLE materials, and looseleaves. This research guide departs from the norm and discusses government publications and materials before traditional books. This is due to their relative importance in researching this topic. At present, there are not many traditional legal treatises that address this topic. Fortunately, there is an abundance of government and non-government electronic publications that serve a similar function.

There are many ways to find books and related materials, but for the sake of convenience, it is generally suggested that one start locally and expand, as needed. Although this research rule-of-thumb is true for this topic, it is very likely that expanding outside the local/home institution library will be necessary. As such, this guide places great emphasis on regional and national consortia, as well on AGRICOLA, (AGRICultural OnLine Access), a database of citations for the National Agricultural Library that is searchable on the World Wide Web.

A few words of caution when relying on secondary sources such as books: (1) be mindful of the editor's or author's credentials; (2) even a well-credentialed author may have personal or professional biases that influence his or her work; and (3) make certain that the book is not outdated.

### 3. RAPID RESULTS

3.1. AGRICOLA. The National Agricultural Library catalog and article citation database, AGRICOLA, is one of the most efficient means of locating records for all kinds of publications and resources on every facet of agriculture and related fields. AGRICOLA is searchable at no cost on the World Wide Web at <http://agricola.nal.usda.gov>.

3.2. WorldCat. With over 40 million catalog records, WorldCat is an

important resource for locating books, government documents, non-government organization electronic resources, and even CLE materials.

3.3. Alternative Farming Systems Information Center (AFSIC). Government publications particularly those from the USDA, play an extremely important role in researching federal regulation of organic food. USDA publications are centrally located on the website of the Alternative Farming Systems Information Center of the National Agricultural Library of the USDA (<http://www.nal.usda.gov/afsic/ofp/>).

#### 4. GOVERNMENT PUBLICATIONS & MATERIALS

##### 4.1. Search Strategies

Government agencies and offices routinely publish reports, statistics, articles, and informational summaries. Since these materials are published by government staff members, they have a good deal of credibility. It is important to note, however, that government publications and materials are *secondary* sources and do not constitute the law. Government publications and materials serve a particularly important role in researching this topic because there are so few traditional legal treatises. Fortunately, there are several means of accessing the abundant government sources on federal regulation of organic food.

Online library catalogs (home institution, RLG, WorldCat, etc.), GPO Access and CIS are often convenient sources for locating relevant government documents. However, because the most informative and current government materials on this topic are published by the USDA, the most efficient means of finding full-text government publications is the USDA's Alternative Farming Systems Information Center website.

##### 4.1.1. Alternative Farming Systems Information Center (AFSIC)

The Alternative Farming Systems Information Center is the organic farming and sustainable agriculture information center of the National Agricultural Library. The AFSIC website (<http://www.nal.usda.gov/afsic/ofp/>) contains citations and links to a **comprehensive list of all the organic agriculture related documents published by the USDA from 1992 through May 2003**. Until the list is updated, the researcher can search for any new publications by using AGRICOLA or by checking the websites of USDA agencies that publish organic regulation related materials, which include:

- Agricultural Marketing Service, NOP (<http://www.ams.usda.gov/nop/>)
- Agricultural Research Service, NAL (<http://www.ars.usda.gov/>)
- Economic Research Service, <http://www.ers.usda.gov/>

##### 4.2. Suggested Government Publications & Materials

##### 4.2.1. AFSIC Publications

Organic Agricultural Products: Marketing and Trade Resources  
Mary V. Gold

AFSIC, NAL, USDA (March 2004 Update)

129 p.

Available through the National Agricultural Law Center at

<http://www.nationalaglawcenter.org/readingrooms/organicprogram/>

This detailed electronic publication provides an overview of U.S. organic policy, laws and regulations with respect to labeling and marketing organic products, as well as organic market studies from 1999-2004. This resource is particularly useful because it provides selected text and links for USDA national organic standards for certification, organic production/handling requirements, and labeling/market information. There is also an index to references and organizations.

Organic Livestock Production: A Bibliography. Selected Citations from 1974-September 2004

Mary V. Gold

AFSIC, NAL, USDA (September 2004)

125 p.

Available at [http://www.nal.usda.gov/afsic/AFSIC\\_pubs/srb0405bib.htm#toclivestock](http://www.nal.usda.gov/afsic/AFSIC_pubs/srb0405bib.htm#toclivestock)

This current bibliography written by USDA staff member Mary Gold contains a wealth of references on organic livestock. Although some of the references are outdated, many are from the past couple of years. This resource can be accessed online or requested from NAL. In fact, all AFSIC publications are available in print free of charge to the public, though there is a five-document limit per order.

Organic Agriculture Search Guide Series: Organic Information Resources: What are They? Where are They? How can I Find Them?

Mary V. Gold

AFSIC, NAL, USDA (Oct. 2001)

10 p.

Available online at <http://www.nal.usda.gov/afsic/ofp/orgfind.htm>

Although published in 2001, this government resource offers organic food regulation law research techniques and tips that are still relevant today. It discusses topics such as primary sources of law, print and electronic materials, databases, directories and search engines. It also gives suggestions on creating successful search strings for online databases. Although this source doesn't speak directly to federal regulation of organic food, it does provide research tips for locating relevant material.

#### 4.2.2. Agricultural Marketing Service Publications

Labeling Packaged Products

National Organic Program, Agricultural Marketing Service, USDA (2003)

Available at <http://www.ams.usda.gov/nop/ProdHandlers/LabelTable.htm>

This publication provides an overview of the requirements for food labeled: "100% organic," "organic," or "made with organic ingredients."

Organic Food Standards and Labels: The Facts

National Organic Program, Agricultural Marketing Service, USDA (2002)  
Available at <http://www.ams.usda.gov/nop/Consumers/brochure.html>

This consumer brochure published by AMS provides a brief definition of organic food and describes the requirements producers and handlers must meet in order to claim that their food is organic. In particular, the brochure addresses issues surrounding the organic seal and the regulatory difference between “natural” and “organic.”

#### Questions and Answers

National Organic Program, Agricultural Marketing Service, USDA (2002)  
Available at <http://www.ams.usda.gov/nop/Q&A.html>

This publication answers basic questions pertaining to organic production and handling requirements, labeling and market information, certification, accreditation of certifying agents and allowed/prohibited substances. In addition the resource addresses the interplay between state organic programs and the NOP, as well as the issues surrounding the exporting of organic products.

#### 4.2.3. Agricultural Research Service Publications

##### Organic Foods: Markets and Marketing - Recent Books, Articles, News Items, Reports, and Videos

Mary V. Gold

National Agricultural Library, Agricultural Research Service, USDA (2001)  
Available at [http://www.nal.usda.gov/afsic/AFSIC\\_pubs/orgmrkt.htm](http://www.nal.usda.gov/afsic/AFSIC_pubs/orgmrkt.htm)

This bibliographic publication enumerates citations to a variety of references related to the organic food market. Though some of articles cited are getting a bit dated, the periodical titles included in article citations are still pertinent, including American Journal of Alternative Agriculture, Food Industry News, and Food Review.

#### 4.2.4. Economic Research Service Publications

##### U.S. Organic Farming in 2000-2001: Adoption of Certified Systems

Catherine Greene and Amy Kremen

Agriculture Information Bulletin no. 780

Economic Research Service, U.S. Department of Agriculture (2003)

42 p.

Available at <http://www.ers.usda.gov/publications/aib780/>

This publication discusses the production and processing standards for organic food implemented in October 2002 and reports on USDA estimates of farm land devoted to organic agriculture. It also discusses federal funding and support activities for organic agriculture, including certification cost-share support, research and technical assistance, conservation initiatives, marketing order exemptions, export promotion, and crop insurance.

##### Recent Growth Patterns in the U.S. Organic Foods Market

Carolyn Dimitri and Catherine Greene

This publication presents economic research on growth patterns in the U.S. organic market broken down by type of organic product: (1) fresh produce; (2) dairy; (3) meat, poultry, and eggs; (4) fibers; and (5) herbs and flowers. In addition, the resource addresses USDA research, program, and regulatory activities on organic agriculture, as well as provides a four-page bibliography.

## 5. TREATISES, BOOKS & BOOKS WITH BIBLIOGRAPHIES

### 5.1. Search Strategies

#### 5.1.1. Library of Congress Subject Headings

Online library catalogs generally use Library of Congress subject headings. The following subject headings are recommended for this topic, in order of most to least useful:

Organic Farming – Government Policy – United States  
Organic Farming – Law and Legislation – United States  
Organic Farming – Standards – United States  
Natural Foods – Standards – United States  
Natural Foods – Certification – United States  
Agricultural Laws and Legislation – United States  
Alternative Agriculture – Government Policy – United States  
Food Law and Legislation – United States  
Farm Law – United States

As seen above, relevant LC subject headings for this topic are varied, so researchers should not limit themselves to “Organic Farming –” subject headings. For example, the highly relevant resource: [A Primer on the U.S. Department of Agriculture National Organic Program](#), Olsson, Frank, and Weeda, P.C. (2003), 60 p., LC: S605.5, is classified under “Natural Foods – Marketing – Standards – United States” and “Natural Foods – Standards – United States,” but *not* under the “Organic Farming –” heading.

#### 5.1.2. Online Catalogs: Home Institution, AGRICOLA, and Regional/National Level Consortia

Although it may seem efficient, it is never a good idea to try to find books simply by looking through the bookshelf at the local library, because at any given moment, a great number of sources will not have been re-shelved. Instead, the researcher should rely on online catalogs, which are databases containing records for sources housed in libraries, including books, journals, manuscripts, government documents, microforms, data files, and even sound recordings and music scores. These databases are updated regularly, and the online nature of catalogs enables the researcher to go beyond not only the physical bookshelf, but also the materials housed in the local library, and to search the databases of other libraries, including those of large academic institutions and law firms.

#### 5.1.2.1. The Home Institution

Since a library's catalog contains records for anything the library owns or for which it has a license, this guide suggests that the researcher start with the online catalog of his or her local/home institution library. That said, branching out to other libraries will likely be necessary because books related to this topic are scarce. Furthermore, there is a good chance that only a handful of libraries will carry any one specific title. For instance, [Toward Organic Integrity: A Guide to the Development of U.S. Organic Standards](#), Michael Sligh, Rural Advancement Foundation International-USA (1997), 243 p., is only available at six libraries: (1) University of California, Berkeley; (2) National Agricultural Library; (3) Michigan State University; (4) University of Minnesota; (5) Rutgers University; and (6) University of Wisconsin, Madison.

#### 5.1.2.2. AGRICOLA & The National Agricultural Library

AGRICOLA (AGRICultural OnLine Access) is the National Agricultural Library (NAL) catalog and article citation database. AGRICOLA records include publications and resources on every facet of agriculture and related fields, including farming and food. Many AGRICOLA records are linked to full-text, online documents, though the database, itself, does not contain the materials. AGRICOLA is accessible to all researchers at no cost because it is searchable on the World Wide Web at <http://agricola.nal.usda.gov>.

AGRICOLA is broken down into two databases, which can be searched individually or together. The first is the NAL Online Public Access Catalog, which includes citations to, *inter alia*, books and serial publications. The second database is the NAL Article Citation Database (also called "Journal Articles"), which contains citations for journal articles, *book chapters*, and reports. Since the so-called Journal Articles database contains citations to chapters within books, **the researcher should run AGRICOLA searches using both databases**, and can search by keyword, title, Library of Congress subject heading, and author name. The Library of Congress subject headings enumerated on page 9 are helpful search tools for this database.

AGRICOLA has several user-friendly features. First, the researcher can have relevant AGRICOLA records emailed to his or her email account. Second, the database has Search History, a feature whereby the researcher can view previous searches performed during a particular session. Third, search results can be limited and refined by language, date, or type of resource. Fourth, NAL has a document delivery service for researchers who want to obtain pertinent materials; interlibrary loan requests should be submitted through the researcher's local library.

#### 5.1.2.3. Regional Consortia

Regional resource-sharing consortia contain their member-institutions' online catalogs and offer opportunities for interlibrary loans. These services are critical for this topic due to the relative scarcity of relevant books. The Yale University Library provides a frequently updated list of the institutions/consortia comprising the

International Coalition of Library Consortia (ICOLC) located at <http://www.library.yale.edu/consortia/icolcmembers.html>. This webpage provides links to information about each consortia, including contact information, descriptions, functions, and numbers/types of member libraries. Roughly 150 consortia are listed on this website. Examples include New England Law Library Consortium (NELCO), Boston Library Consortium, Inc., Colorado Alliance of Research Libraries (CARL), and Triangle Research Libraries Network.

#### 5.1.2.4. National Level Consortia: RLG & WorldCat

The RLG Union Catalog is a subscription database of records for over 40 million items, including books, serials, and archival collections. RLG functions as a database for the collections of research, academic, public, corporate and national libraries, the Library of Congress, museums, and international book vendors. To facilitate interlibrary loans, records include the names of contributing libraries and local call numbers. RLG uses Library of Congress subject headings, among other search options. Since there are relatively few treatises or books relevant to federal regulation of organic law, using a national level consortia, such as RLG will likely be necessary to locate pertinent materials.

Similar to RLG, WorldCat can be used to locate citations of books (and other sources) not found in the home institution catalog. WorldCat contains over 40 million catalog records, which are searchable through Library of Congress subject headings, keyword, title, author and more. It has holdings from more than 12,000 libraries. Since RLG and WorldCat have somewhat different resources, **the researcher should consult both**, especially given the small number of traditional print sources on this topic.

#### 5.1.3. Amazon, Barnes & Noble, and Alibris

Amazon ([www.amazon.com](http://www.amazon.com)), Barnes & Noble ([www.barnesandnoble.com](http://www.barnesandnoble.com)) and Alibris ([www.alibris.com](http://www.alibris.com)) contain records for quite a few non-legal books addressing the issues surrounding organic food. Although they do not use Library of Congress subject headings, these websites are searchable by terms such as “organic food,” “organic farming,” and “sustainable agriculture.” Although there was considerable overlap among the three sources, Amazon seems to be the most useful because it enables the researcher to see a book’s table of contents and/or index. Together, Amazon, Barnes & Noble and Alibris contained several records for fairly useful non-legal books, including Elaine Lipson’s [The Organic Foods Sourcebook](#), Contemporary Books/McGraw-Hill (2001), 221 p., LC: TX369. Although some law and legislation is discussed in this and other non-legal books found on these websites, the sociological and political underpinnings of the organic food industry are their main focus. In addition, although non-legal books may provide good background on the topic, the researcher should be mindful of the author’s possible personal or political agendas and affiliations, as well as of his or her credentials.

#### 5.1.4. Index to Legal Periodicals

Indices such as the Index to Legal Periodicals may be used to find materials included within a collection of periodicals or books. Index records usually indicate a resource's author, title, citation, and sometimes a summary of content. Online indices often provide a link to the full-text material, and so are recommended over print indices.

In 1994, Index to Legal Periodicals, available through Westlaw, Lexis, and in print, began indexing legal books. Unfortunately, **Index to Legal Periodicals and Books (ILPB) did not contain citations for relevant, current books on this topic**, but did provide several pertinent legal periodical citations (see Periodicals section of this guide). However, as more books are published on this topic, ILPB may prove to be a more important tool. To search ILPB, try the following search strings, starting with the most topic-specific ("National Organic Program") to the broadest (agricultur! /2 law):

"National Organic Program"

"Organic Foods Production Act"

organic /s food or farm! or agricultur!

agricultur! /2 law

#### 5.1.5. A Note on Westlaw & Lexis

Westlaw and Lexis are often good sources for locating citations and full records for treatises. However, **they did not contain book records that address this topic to any real extent** because traditional texts available on Westlaw and Lexis (e.g. legal encyclopedias, Restatements, and American Law Reports) do not, as of yet, substantively address federal regulation of organic food.

#### 5.2. Suggested Treatises, Books & Books with Bibliographies

##### Good Growing: Why Organic Farming Works

Leslie A. Duram

University of Nebraska Press (2005)

LC: S605.5

250 p.

Written by an associate professor of geography and environmental resources at Southern Illinois University at Carbondale, this recent publication explores the realities and current state of organic farming. The book also includes an **eight-page annotated list of information links** (pages 205-212), as well as an **extensive, up to date bibliography** (pages 213-237). Although much of the book focuses on the social and ecological concerns faced by organic farmers, the detailed index makes it easy to find those sections that discuss legal and regulatory concerns. Relevant index terms and page numbers include: (1) National Organic Certification Standards, pages: 3-4, 30-32, 170-175, 193; (2) National Organic Program, pages 84, 210; (3) Organic Production, pages 1-2, 4-7, 193-197; (4) Politics, pages 13, 32-33, 83-84, 155, 188-189, 193;

(5) Regulation, pages 3-4, 21-32, 110, 171-175, 195-196; and (6) U.S. Department of Agriculture, pages 3-4, 7, 30-32, 34-35, 84, 170-175, 192-195, 210-211.

A Primer on the U.S. Department of Agriculture National Organic Program

Olsson, Frank, and Weeda, P.C.

The Food Institute (2003)

60 p.

LC: S605.5

Written by Washington D.C.'s Olsson, Frank, and Weeda, P.C. ([www.ofwlaw.com](http://www.ofwlaw.com)), this publication addresses virtually every regulatory aspect of organic food, including key elements of the NOP Final Rule, organic production and handling standards, labeling, certification, state organic program requirements, as well as an overview of the rulemaking process for the NOP. In addition, there are several appendices, which include a list of domestic accredited certifying agents and the text of the National List.

Organic Agriculture: Sustainability, Markets and Policies

Organisation for Economic Cooperation and Development

CABI Pub. (2003)

406 p.

LC: S605.5

This recent publication is a collection of papers relating to organic products in countries comprising the Organisation [sic] for Economic Cooperation and Development (OECD). Although much of the collection address organic regulation on an international level, U.S. organic policy is addressed a fair amount in the following papers included in the book: (1) "What is Organic Agriculture? What I learned from My Transition" by Bill Liebhardt, Research Manager, Rodale Institute, U.S., on pages 31-45; (2) "The Organic Market in OECD Countries: Past Growth, Current Status and Future Potential" by David Hallam, Chair, Interdepartmental Working Group on Organic Agriculture, Food and Agriculture Organization of the United Nations, Rome, Italy, on pages 179-186; and (3) "The Role of Government Standards and Market Facilitation" by Kathleen Merrigan, Director, Agriculture, Food and Environment Program, Tufts University, U.S., on pages 277-283. These papers discuss the U.S. definition of organic, the U.S. organic market/industry, and U.S. organic regulatory policies, respectively.

Farming for Us All: Practical Agriculture and the Cultivation of Sustainability

Michael Mayerfeld Bell (et al.)

Pennsylvania State University Press (2004)

299 p.

LC: S451.I8

This book briefly touches upon this topic when it argues that organic food regulations and products have not adequately reconnected the consumer with sustainable agriculture. The main use for this book, however, is its **extensive agriculture-related bibliography** on pages 273-285.

The Organic Foods Sourcebook

Elaine Lipson

Contemporary Books/McGraw-Hill (2001)

221 p.  
LC: TX369

This non-legal book focuses on the organic market, the role organic food plays in health, and the interplay between organic farming and the environment. Nonetheless, chapter one (“What Organic Really Means”), chapter six (“The National Organic Program and What It Means for Consumers”), and chapter seven (“Label Stew: Making Sense of the Eco-Labels”) contain easy to understand explanations of the development of federal regulation of organic food. Ms. Lipson has written extensively about organic and natural products, and was the senior editor of Natural Business LOHAS Journal and served as the public/community relations director for Alfalfa’s Markets, Inc. In addition to providing information on the organic food market and corresponding regulation, this book has a **51-page annotated list of organic agriculture organizations**, as well as a nine-page bibliography to legal and non-legal materials.

Toward Organic Integrity: A Guide to the Development of U.S. Organic Standards

Michael Sligh

Rural Advancement Foundation International-USA (1997)

243 p.

LC: S605.5

Although written in 1997, this guide remains an interesting, if somewhat historical resource for the researcher of this topic. Written by Michael Sligh, a member of the National Organic Standards Board (NOSB) from 1992–1997 and the founding chair from 1992-1995, this guide chronicles the issues that surrounded the proposed rules for U.S. organic standards and discusses critical NOSB documents. The book is comprised of three sections: (1) a review of regulatory concerns; (2) a comprehensive set of NOSB recommendations for the USDA; and (3) an appendix of relevant documents. Knowledge of NOSB recommendations and an understanding of the Board’s role are important to the researcher of this topic because the NOSB is the body responsible for assisting in the development of organic product standards and in the implementation of the National Organic Program. The preamble section of the guide provides a complete, yet brief overview of the NOSB’s role and of the entire process involved in establishing organic product regulations.

6. NON-GOVERNMENT ELECTRONIC PUBLICATIONS & ONLINE COMPUTER FILES

6.1. Search Strategies

National consortia and AGRICOLA are useful for finding electronic publications and online computer files produced by various non-government organizations, such as the National Agricultural Law Center (<http://www.nationalaglawcenter.org/>) and the National Sustainable Agriculture Information Center (<http://attra.ncat.org/>).

The Organic Agriculture Information research website (<http://www.organicaginfo.org/>), is another tool for locating non-government documents. This website is funded by a grant from the Initiative for Future Agriculture and Food Systems (IFAFS) through the USDA Cooperative State Research Education and Extension Service (CSREES), and contains a large collection of full-text PDF files of electronic publications. This collection is searchable by keyword, and by commodity topic (e.g. “Vegetables” and “Fruits and Nuts”) or by information subtopic (e.g.

“*Certification*” and “*Farming Systems*”). **This guide recommends searching by information subtopic**, specifically “*Certification*,” “*Transition to Organic*,” and “*Marketing and Food Quality*.” These searches will lead to several useful materials. For instance, the “*Certification*” subtopic yielded 51 relevant, current, full-text PDF files.

## 6.2. Suggested Non-Government Electronic Publications & Computer Files

### Organic Farming Compliance Handbook

Sean L. Swezey, Brian Baker, David Chaney, Steve Guldan, & David Granatstein  
Utah State University, Western Region USDA SARE (2005)

Various pagings

Available at

<http://sarep.ucdavis.edu/organic/complianceguide/>

This January 2005 guide intended for agricultural professionals provides detailed sections on the principles of organic production, National Organic Program standards, organic systems plans, materials compliance, and organic marketing/economics. It also provides a **nine-page annotated bibliography** of books and other references. This is an important resource because of its recent publication date, thorough overview of NOP standards, and easy accessibility via the World Wide Web.

### A Legal Guide to the National Organic Program

Harrison M. Pittman

The National Agricultural Law Center (2004)

60 p.

Available at

[http://www.nationalaglawcenter.org/assets/articles/pittman\\_organicprogram.pdf](http://www.nationalaglawcenter.org/assets/articles/pittman_organicprogram.pdf)

This recent publication provides a thorough overview of the National Organic Program, including information on certification, exemptions, exclusions, recordkeeping requirements, permitted/prohibited substances, livestock production and handling requirements, use of the term “organic,” on-site inspections, accreditation of certifying agents, compliance requirements, and more. In addition, the publication is heavily footnoted, providing good statutory references to primary law. This publication was written by staff attorney and Research Assistant Professor Harrison M. Pittman from the National Agricultural Law Center of the University of Arkansas School of Law. Mr. Pittman holds an LL.M. degree in Agriculture from the University of Arkansas School of Law.

### Who Owns Organic: The Global Status, Prospects, and Challenges of a Changing Organic Market

Michael Sligh and Carolyn Christman

Rural Advancement Foundation International (2003)

35 p.

Available at <http://www.rafiusa.org/pubs/OrganicReport.pdf>

This publication provides an introduction to the global organic agriculture market. It provides statistics on acreage, sales, trade and summarizes governmental activity in the industry. Although the article discusses the global market, pages 5-6, 9-11, and 17-27 directly address the

U.S. organic industry. This publication also has an **extensive bibliography**. It is produced by Rural Advancement Foundation International, a private non-profit organization whose focus is on organic standards, contract agriculture, biotechnology, and other issues affecting agriculture.

National Organic Program: Compliance Checklist for Producers

ATTRA Project, National Sustainable Agriculture Information Center & National Center for Appropriate Technology (June 2003)

20 p.

Available at <http://attra.ncat.org/attra-pub/PDF/compliance.pdf>

Published for farm and ranch operators, this checklist for compliance with the National Organic Standards Program provides a good summary of organic food production standards. This is just one of several publications produced by the ATTRA Project of the National Sustainable Agriculture Information Center, all of which are available in HTML or PDF format at <http://attra.ncat.org/organic.html>.

Organic Farm Certification & The National Organic Program

George Kuepper

ATTRA Project, National Sustainable Agriculture Information Center & National Center for Appropriate Technology (October 2002)

8 p.

Available at <http://attra.ncat.org/attra-pub/PDF/organcert.pdf>

Written by an agriculture specialist from the National Center for Appropriate Technology, this guide details the steps necessary for organic certification and discusses the sole exemption to mandatory certification. This practical guide is quite technical (e.g., it provides information on the fees associated with going organic), and the precise nature of the information would likely prove helpful for legal practitioners.

Quarterly Updated Agricultural Law Bibliography

Drew L. Kershen

The National Agricultural Law Center (updated through 2004)

Various pagings

Available at

<http://www.nationalaglawcenter.org/bibliography/>

These electronic publications of agricultural law related bibliographies are updated four times per year and can be browsed by subject. The most relevant subject for this topic is “*Sustainable and Organic Farming*,” which contains a list of references to recent books and articles on organic food regulation, with links to full-text whenever possible. This series of topical electronic bibliographies is compiled quarterly by Professor Drew L. Kershen, University of Oklahoma College of Law.

Agricultural Law: A Selected Bibliography

Sally J. Kelley

The National Agricultural Law Center (1985-2003)

Various pagings

Available at

<http://www.nationalaglawcenter.org/assets/kelleybib/index.html>

This series of bibliographies contains citations (with links to full-text whenever possible) to legal articles and books on agricultural topics relevant to organic food regulation, including alternative agriculture, animal law, and pesticides. These annual bibliographies are compiled by Sally J. Kelley, National Agricultural Law Center Librarian and Research Professor.

Guide to ATTRA's Organic Publications: Resource List

George Kuepper

ATTRA Project, National Sustainable Agriculture Information Center & National Center for Appropriate Technology (November 2003)

4 p.

Available at <http://sarep.ucdavis.edu/organic/complianceguide/organizations4.pdf>

This annotated resource list contains references to publications produced by the ATTRA Project, which provides production and marketing information to the sustainable farming community and is managed by the National Center for Appropriate Technology. ATTRA boasts more than 230 publications on topics related to sustainable and organic agriculture. Although this list annotates several sources, it is not complete. However, The ATTRA Publications Catalogue provides a comprehensive list, and is available at no cost by calling 1-800-346-9140.

7. DISSERTATIONS

7.1. Search Strategies

Dissertations are valuable research tools for both the information they provide and the extensive bibliographies/footnotes they generally contain. Dissertation Abstracts/Digital Dissertations (DA/DD) provide citations to doctoral and masters theses from most North American graduate schools and several European universities. Available as an electronic resource for subscribing institutions or on Westlaw as Dissertation Abstracts Online (identifier: DAO), DA/DD provides full-text, pdf-formatted dissertations from 1997 to the present. Although this is an index to resources that are non-legal, many of the dissertations provide law-related information. Searchable by citation, abstract, author, advisor, title, and more, DA/DD contains citations and full-text to several theses relevant to organic food regulation. This guide recommends an “*Abstracts*” search for queries that will limit results to dissertations that focus on the United States such as the following:

“National Organic Program”

“organic food” and law or legal or regulation and “United States”

DA/DD also offers a notification service called Search Alert that is similar to Lexis's Eclipse system. Once the researcher runs a search, he or she can set up a Search Alert entry. As soon as new theses matching the specified search criteria are added to DA/DD, the researcher will be notified by email. Similarly, if using DAO on Westlaw, the researcher can set up a WestClip entry.

A few cautionary notes: (1) dissertations are subjective in that they usually argue for, or against, a particular viewpoint; (2) the credibility of the educational institution supporting the thesis should be evaluated; and (3) although DA/DD is the most efficient way of locating dissertations on this topic, the researcher should also consult national consortia, including WorldCat.

## 7.2. Suggested Dissertations

### Consuming Ethics: Voluntary Certification vs. Mandated Uniformity. Lessons from the Organic Food Industry

Yesim Yilmaz, Ph.D.

George Mason University (2004)

165 p.

This quite recent doctoral thesis argues that the National Organic Program's replacement of privately administered certification schemes with federally-mandated uniform standards was detrimental to the organic food industry because the NOP had difficulty incorporating ethical characteristics of organic agriculture into the USDA's regulatory framework. In addition, the dissertation details with great specificity the development of federal regulation of organic food, and contains a **nineteen-page bibliography**.

### Conventional Agriculture and the National Organic Standards: Implications for Local Food Production

Alexandria Rose, M.A.

University of Oregon (2003)

82 leaves

LC: S589.755

This master's thesis explores the final version of the NOP's organic standards and maintains that they fail to set up specific, ecologically sound practices. In her argument, the author provides an overview of the history of the organic agricultural movement (pages 43-49), as well as the development of recent organic standards (pages 50-54). This thesis is not available online, but the University of Oregon graciously provides it through interlibrary loan.

### The Organic Label and Sustainable Agriculture: Consumer Preferences and Values

David Scott Conner, Ph.D.

Cornell University (2002)

81 p.

This doctoral thesis explores what buyers want "organic" to mean and whether the NOP reflects those preferences. As background for the analysis, the author describes the development of organic food regulation through 2001 on pages 1-5, and 31-32. Although this dissertation contains many bibliographical references, the majority are economics-based, and thus not particularly useful to this topic.

## 8. BAR & CLE MATERIALS

### 8.1. Search Strategies

Bar/CLE materials are published for practitioners and are good sources of information on how particular laws affect the representation of clients. These are practical, less academic sources, and their quality can vary publication by publication because of the variety in authorship.

Traditional means of finding CLE materials include: (1) Westlaw (All Databases > Forms, Treatises, CLEs and Other Practice Material > Practice Guides and CLE Materials); (2) Lexis (Legal > Secondary Legal > CLE Materials); and (3) LOISLAW. However, **these sources do not provide citations to CLE materials relevant to this topic.** Accordingly, this guide recommends using the WorldCat catalog to find pertinent CLE material citations. In order to find these citations, choose the “*Advanced Search*” option. Then, run the following searches:

[Title: agricultural] and [Publisher: “Continuing Legal Education”]

[Title: agricultural] and [Publisher: “Bar Association”]

These searches produce citations to many sources, including the Minnesota State Bar’s Twelfth Annual Agricultural Law Institute Continuing Legal Education (2003) materials (annotated below). Although WorldCat is the best means of finding CLE material citations, it does not provide the full-text of the document. Unfortunately, copies of CLE materials (especially state bar materials) are often found in very few libraries. For instance, the Twelfth Annual Agricultural Law Institute CLE (2003) materials are housed in only five libraries, all of which are located in Minnesota: Hamline University School of Law Library, Hennepin County Law Library, Minnesota State Law Library, University of Minnesota Law Library, and William Mitchell College Law Library. Accordingly, the researcher should consult with his or her home institution to pursue interlibrary loan options.

In addition to interlibrary loan, CLE materials are sometimes posted, in whole or in part, on individual state bar websites, or can be obtained from the state bar association for a fee. Findlaw has links too all of the state bar associations at <http://www.findlaw.com/07cle/list.html>. The Washlaw Website (<http://www.washlaw.edu/>) of the Washburn School of Law also provides links to state bar associations.

## 8.2. Suggested Bar & CLE Materials

### Twelfth Annual Agricultural Law Institute

Agricultural Law Institute

Minnesota State Bar Association, Continuing Legal Education (2003)

Various pagings

LC: KFM5639 .Z9

<http://www.minncle.org/>

Tab number five of this CLE binder contains materials from a presentation entitled, “*National Organic Program: USDA’s National Organic Rule*” prepared by James A. Riddle, a policy specialist from Organic Independents, Winona, Minnesota. The presentation materials are detailed slides covering a variety of topics, including but not limited to the basis for national

standards, USDA organic seal, USDA's role, NOSB's role, NOP crop requirements, National List, and GMO contamination issues.

Agricultural Law

Iowa Law School, Continuing Legal Education (2003)

Various pagings

LC: KFI4439 .A75

<http://www.uiowa.edu/~lawcle/>

This 2003 CLE binder contains materials from a presentation entitled "*Legal Issues Related to the Use and Ownership of Genetically Modified Organisms*," which was presented by Dr. Roger A. McEowen, an associate professor at Kansas State University's Department of Agricultural Economics and a member of the Kansas and Nebraska Bars. This material addresses the legal concerns relating to genetically modified organisms (GMOs). The subsection marked "*Negligence*" discusses the interplay between GMOs and organic products, and explains that because standards for organic products are processed-oriented, NOP regulations are not necessarily violated if detectable residue from GMO crops is found on organic products.

Organic Products, Livestock Confinement, and More

Nebraska State Bar Association, Continuing Legal Education (2002)

Various pagings

LC: KFN239

<http://www.nebar.com/>

This CLE resource contains materials from a lecture entitled, "*What Lawyers Should Know about Organic Farming: The Legal and Practical Issues Relating to Organic Crops and Livestock*." These materials were prepared and presented by Lynn E. Moorer, Director of Operations and General Counsel, Organic Crop Improvement Association International, Inc (OCIA), and are comprised of a typed summary of the presentation, a list of resources, and the OCIA Organic Livestock Plan Questionnaire. The summary addresses key legal references (OFPA and the NOP Final Rule, 7 C.F.R. 205), enumerates important considerations for producers of organic crops and livestock, lists basic requirements for producers, and discusses key legal features of the Program.

Representing the Ag Client

Kansas Bar Association, Continuing Legal Education (2002)

Various pagings

LC: KFK239 .A75

<http://www.kscle.org/>

Although this CLE resource does not have presentation notes on organic food regulation per se, it contains materials that the researcher of this topic may nonetheless find helpful, including: (1) "*Litigating against the USDA: Administrative Appeals & Judicial Review*" by Christopher R. Kelley, Assistant Professor of Law, University of Arkansas School of Law, pages 61-134; and (2) "*Legal Research on the Internet: Strategies and Selected Ag Law Sources*" by Professor John E. Christensen, Washburn University School of Law, pages 97-150.

9. LOOSELEAFS

Unfortunately, looseleaf services are not particularly useful tools for researching this topic. Neither of the following proved very helpful:

Food, Drug, Cosmetic Law Reporter  
Commerce Clearing House, 1975-  
LC: KF3866.5

This six-volume looseleaf does include information about the Organic Foods Production Act and reference to the National Organic Program in its Food and Federal volumes, but its coverage is very general. Moreover, because of CCH's layered indexing, this resource is difficult to use, even through the online form (CCH Health & Human Resources Research Network). However, should the researcher wish to use this resource, consult the *Topical Index* and look under: (1) Agricultural commodities, raw – labeling; (2) Certification – organic foods; (3) Livestock – organic food requirements; (4) Organic Food; and (5) Labeling, food.

Principles of Agricultural Law (2005)  
Roger A. McEowen, Neil E. Harl & Robert P. Achenback  
Agricultural Law Press, 1997-  
LC: KF1682

Despite this looseleaf's promising title, neither chapter 14 ("Environmental Law"), nor chapter 15 ("Regulatory Law"), made any reference to organic food regulation. In addition, neither the term "organic," nor the provisions "National Organic Program" and "Organic Foods Production Act" appeared in the index.

### III. PERIODICALS

#### 1. OVERALL USEFULNESS RATING:

#### 2. OVERVIEW

Legal periodicals consist of law reviews, bar association periodicals, subject or special interest journals, legal newspapers, and legal newsletters. These secondary sources are useful because they summarize and analyze primary sources of law. Articles relevant to this topic can also be found in many different types of non-legal periodicals, including trade journals.

Periodical articles can be located in citation or full-text format through a variety of means. This section explores search strategies for locating legal periodicals, trade journals, and other non-legal periodicals. It also provides an annotated list of suggested periodicals and articles. As in other sections of this guide, fee and non-fee search methods are provided whenever possible.

#### 3. RAPID RESULTS

3.1. Westlaw. Agricultural and food industry trade journals contain a wealth of articles involving federal regulation of organic food. Use of Westlaw’s Database Wizard reveals several databases containing these important periodicals.

3.2. Legal & Non-Legal Indices. Since federal regulation of organic food is a rather multi-disciplinary subject (involving legal, agricultural, environmental, social and health issues), legal and non-legal articles are helpful.

#### 4. FINDING PERIODICALS

##### 4.1. Legal Periodicals

##### 4.1.1. Online Catalogs & Directories

##### 4.1.1.1. Home Institution, RLG & WorldCat

The online catalogs of some home institutions, including Harvard Law School’s HOLLIS Catalog, RLG, and WorldCat may be used to locate periodical titles by selecting the “*serial publications*” or “*journals*” subset of results when running searches. Then, title or keyword searches, or a combination of both, may be used. For example:

Title [farm! or food! or agricultur!] and Keyword [law]
---

In addition, Library of Congress subject heading searches can be run because “—periodicals” is a subject heading that locates journal titles (e.g. “Agricultural Laws and Legislation – United States – Periodicals”).

#### 4.1.1.2. Ulrich's Periodical Directory

Ulrich's is a bibliographic database containing detailed information on national and international periodicals/serials. First published in 1932, it is used as a reference management tool, and is helpful for finding both legal and non-legal periodicals. Available on CD-ROM or online (if the home institution library offers it as an electronic resource), Ulrich's is searchable through several means. The most useful search methods for this topic include the subject-based browse feature (browse "*Food and Food Industries*" and "*Agriculture*") and the advanced search option (search for keywords in title, including "agriculture," "food," and "farming").

#### 4.1.2. Websites

##### 4.1.2.1. Agzines

Agzines, <http://usain.org/agzines.html>, is a collection of agricultural journals that are available online in full-text format and at no cost. Updated frequently (at the time of this writing, the site had been updated on March 23, 2005), Agzines is maintained by the United States Agricultural Information Network (USAIN). It contains an **annotated list of and links to useful agricultural periodicals**. Although Agzines does not include law reviews, it offers links to several USDA periodicals. Agzines is also a terrific source for non-legal periodicals.

##### 4.1.2.2. University of Southern California Law School Legal Journals Listing

This USC site (<http://lawweb.usc.edu/library/resources/journals.html>) provides a list of law reviews and commercial law journals. The site is maintained by Wendy Nobunaga from the USC Law School Library, and is updated regularly; at the time of this writing, the site had been updated as recently as April 14, 2005. The list is divided into several sections: (1) general law reviews; (2) subject specific law reviews; (3) commercial law journals; (4) foreign law journals; (5) ABA journals and newsletters; (6) general interest and computing periodicals; (7) e-journal locating services; and (8) law review locating services.

To locate journal titles useful for this topic, this guide recommends either scanning the list visually or using a web-browser's "find" function to locate words such as "agriculture," "agricultural," "food," "environment" and "environmental."

##### 4.1.2.3. Washington & Lee Law School Most-Cited Legal Periodicals

This website (<http://law.wlu.edu/library/research/lawrevs/mostcited.asp>) ranks the most-cited law journals. The utility of this website for locating relevant periodical titles lies in the fact that the researcher can search for a list of the most cited journals for a particular legal topic. Subjects relevant to this topic in the subject-based drop-box included:

- “*Agriculture and Law*”
  - The two most-cited “*Agriculture and Law*” journals are: (1) Drake Journal of Agricultural Law; and (2) San Joaquin Agricultural Law Review.
- “*Animals and the Law*”
  - The leading journal for “*Animals and the Law*” is Animal Law.
- “*Environment, Natural Resources, and Land Use*”
  - Leading journals for this subject include: Environmental Law Reporter, Ecology Law Quarterly, and Environmental Law.

In addition to the subject-based drop-box option, there is a function that will rank the most cited journal titles that contain a particular word. For instance, a search for ranked periodicals all containing the word “food” produced Food and Drug Law Journal, as well as the soon to be published Journal of Food Law and Policy.

## 4.2. Trade Journals

### 4.2.1. Westlaw

Westlaw provides several databases containing agriculture and food industry trade journals. Although a list of the most relevant databases is included below, Westlaw provides many ways of locating these databases: IDEN, Database Wizard, or through the “*Business & News*” tab.

Although all three methods will be discussed, **this guide recommends using IDEN**, Westlaw’s database of databases. Within IDEN, searches for “agriculture,” “farming” and “food” will produce databases for individual trade journal titles as well as for databases containing articles from a collection of trade journals.

Database Wizard is a second method. This feature locates databases by prompting the researcher to select a desired type of resource, geographic location, court or agency, etc. To use the Database Wizard feature to find databases containing agricultural trade journals, this guide suggests selecting: (1) “Specific court or agency materials” at the first prompt; (2) “United States” at the second; and (3) “USDA” at the third.

Another option for locating trade journal titles is Westlaw’s “*Business & News*” tab. Simply select “*Industry News*” and then choose both “*Agriculture Industry News*” and “*Foods, Beverages and Tobacco Industry News*.”

In addition, the researcher may rely on this list of databases:

- Database Name: *Agriculture News*  
Database Identifier: AGRINEWS  
Coverage varies by publication
- Database Name: *Agriculture Industry News*  
Database Identifier: WNS-AG  
Coverage varies by publication

- Database Name: *Foods, Beverages and Tobacco Industry News*  
Database Identifier: WNS-FD  
Coverage varies by publication

The databases listed above are collections of articles from several periodical titles. To use these databases to retrieve pertinent periodicals (and not individual articles), use the *Field* restrictions option and limit the search to particular sources containing relevant words, for instance:

- SO(farm!)
- SO(food)
- SO(agric!)
- SO(dairy)

This leads to myriad trade journal titles, including: Farmers Weekly, Farmers Guardian, Farm Industry News, Dairy Farmer, Food Industry Week, and Food Institute Report.

#### 4.2.2. Lexis

Although Lexis contains fewer relevant trade journals than Westlaw, finding them is relatively straightforward. After selecting the “*News & Business*” tab, choose “*Market & Industry*,” then “*By Industry & Topic*.” These steps lead to different industry folders; the two most relevant are “*Agriculture*” and “*Food & Beverage*.” Each folder contains a list of relevant journal titles.

### 4.3. Non-Legal Periodicals

#### 4.3.1. AGRICOLA

AGRICOLA contains a database called Journals Indexed in AGRICOLA (JIA). This database is a replacement for NAL’s annual publication, List of Journals Indexed in AGRICOLA. The new JIA database (located at <http://www.nal.usda.gov/indexing/jia.html>) indexes titles from 1992, and offers fairly advanced search options including truncated and Boolean searching, as well as a browse feature. Although JIA is best used to locate non-legal periodicals, it also contains a few legal and trade journal records, including USDA’s Amber Waves.

#### 4.3.2. MedBioWorld

MedBioWorld, <http://www.medbioworld.com/>, is an online medical and bioscience resource and reference site. It gives access to medical and bioscience journals and other resources. Regularly updated (at the time of this writing, the site had been updated on April 21, 2005), MedBioWorld is currently the largest internet directory website for medical/bioscience references.

To use MedBioWorld to find periodical titles for this topic, click on “*Journals by Field*” within the BioScience Resources category. This leads to a list of sub-topics. The most relevant

sub-topics are: (1) Agricultural Economics & Agribusiness Journals; (2) Agriculture Journals; (3) Food Science Journals; and (4) Veterinary Journals. Each of these sub-topics leads to several relevant periodical titles with links to each journal's homepage for additional content and access information.

#### 4.3.3. IngentaConnect

IngentaConnect, <http://www.ingentaconnect.com/>, is an online research service/document delivery system with a database that contains citations, abstracts, and many full-text articles from over 20,000 periodicals in all areas. In addition to searching the full-text of periodicals, the researcher may also browse periodical titles by subject. This function is available at <http://www.ingentaconnect.com/content> through the use of a drop box. The most useful subject categories for this topic are "Agriculture/Food Sciences" and "Earth and Environmental Sciences" – each subject category yielded several titles of relevant non-legal periodicals.

### 5. SUGGESTED PERIODICALS

#### 5.1. Legal Periodicals

Drake Journal of Agricultural Law, Drake Law School, Drake University, 1996-

This law review covers the legal issues affecting the agricultural industry. The journal publishes three issues per year, including a spring issue, which is designated the "American Agricultural Law Association Symposium," and contains articles summarizing the agricultural law topics addressed at the annual American Agricultural Law Association conferences.

Examples:

- Adam W. Jones, *What Liability of Growing Genetically Engineered Crops?*, 7 DRAKE J. AGRIC. L. 621-644 (2002).
- Neil D. Hamilton, *Putting a Face on Our Food: How State and Local Food Policies Can Promote the New Agriculture*, 7 DRAKE J. AGRIC. L. 407-452 (2002).

Availability:

- Westlaw, Database Identifier: DRAKEJAL (Full coverage).
- Lexis, File-Name: DRJAGL (Spring 1997 through current).
- Articles provided by issue on the Drake Journal of Agricultural Law webpage: <http://students.law.drake.edu/agLawJournal/pastIssues/> (full coverage).

San Joaquin Agricultural Law Review, San Joaquin College of Law, 1991-

This agricultural law review is published annually and contains articles written by scholars, practitioners and students.

Example:

- Diane Thue-Vasquez, *Genetic Engineering and Food Labeling: A Continuing Controversy*, 10 S.J. AGRIC. L. REV. 77-119 (2000).

Availability:

- Lexis, File-Name: SJALR (1996 through present).

Journal of Food Law & Policy, University of Arkansas School of Law, 2005-

This new journal will address food law and policy, including topics such as food regulation, safety, and labeling, and will include updates on changes in U.S. food law. The journal will be published twice per year.

Availability:

- Availability on Westlaw and/or Lexis is currently unknown. The Journal's website, <http://law.uark.edu/student/orgs/foodlaw/index.htm>, will likely provide information on coverage and availability.
- Researchers may also contact the Journal to inquire about future availability:

Journal of Food Law & Policy

Law Programs Center

1 University of Arkansas

Fayetteville, AR 72701

[foodlaw@uark.edu](mailto:foodlaw@uark.edu)

(479) 575-2754

Food and Drug Law Journal, Food and Drug Law Institute, 1992-

This journal contains scholarly articles dedicated to analyzing the actions of the USDA, FDA and FTC, and to chronicling how courts construe such actions.

Example:

- Kenneth C. Amaditz, *The Organic Foods Production Act of 1990 and Its Impending Regulations: A Big Zero for Organic Food?*, 52 FOOD & DRUG L.J. 537-559 (1997).

Availability:

- Westlaw, Database Identifier: FOODDLJ (Vol. 47 through current).
- Lexis, File-Name: FADLJ (Vol. 51, No. 4 through current).

The National AgLaw Reporter, The National Agricultural Law Center, 2002-

This electronic newsletter addresses current agricultural and food law issues. The periodical addresses legal news, recent cases, and regulatory changes as reported in the Federal Register.

Example:

- Joshua T. Crain, *Organic Program Final Rule Challenged as Inconsistent with Organic Foods Production Act*, NAT'L AGLAW REP., Mar. 21, 2005.  
\* The National AgLaw Reporter electronic periodical is not organized by page number; thus, pagination for its articles is not available.

Availability:

- Available through the National Agricultural Law Center at <http://www.nationalaglawcenter.org/reporter/>.

Agricultural Management Committee Newsletter, American Bar Association

This ABA newsletter is published by the ABA Section of Environment, Energy, and Resources. It contains articles relating to agricultural management, biotechnology and other related topics.

Example:

- David K. Bowles, *The National Organic Program: Cleaned Up and Ready to Grow*, 5 No. 2 AGRIC. MGMT. COMMITTEE NEWSL., Mar. 2001.  
\* Pagination is not available for online articles until Vol. 7, No. 1, January 2003.

Availability:

- Available through the ABA website at <http://www.abanet.org/environ/committees/agricult/newsletter/home.html>.

Amber Waves, Economic Research Service, USDA, 2002-

This new magazine addresses agriculture, food, trade, and the environment. Published five times a year in print or electronically, Amber Waves is the replacement for the USDA's Agricultural Outlook, Food Review, and Rural America publications.

Example:

- Catherine Greene & Carolyn Dimitri, *Organic Agriculture Gaining Ground*, 1 No. 1 AMBER WAVES 8-9, Feb. 2003.

Availability:

- Available online at <http://www.ers.usda.gov/AmberWaves/AllIssues/>.

Andrews Food Health & Safety Litigation Reporter, Andrews Publications, 2004-

Issued monthly, this reporter provides comprehensive coverage of litigation relating to food safety issues, and the food industry, in general. This will be a valuable source for tracking impending and upcoming organic food related case law.

Example:

- *Plaintiff Wins Two Challenges to USDA's Organic Labeling Rules*, 1 No. 6 ANDREWS FOOD HEALTH & SAFETY LITIG. REP. 6, February 10, 2005.

Availability:

- Westlaw, Database Identifier: ANFOODLR (Full coverage).

Agricultural Law Update, American Agricultural Law Association, 1983-

This monthly newsletter summarizes recent federal and state agricultural law court decisions, and publishes bibliographies of new references four times per year.

Example:

- *Agricultural Law Bibliography Fourth Quarter 2002*, Jan. 2003 AGRIC. L. UPDATE 3.

Availability:

- Issues are available on the Agricultural Law Update webpage, <http://www.aglaw-assn.org/members/members2/aglawupdate.html>. The website has a search feature; however, this function appears to yield under-inclusive results, so researchers should try several terms and word variations, e.g. "alternative agriculture" and "organic."

Agricultural Law Digest, Agricultural Law Press, 1989-

This newsletter is published 24 times per year and contains articles on recent developments in agricultural law and regulation. Although this publication seems to focus on tax/estate issues confronting the agricultural community, it may provide information relevant to this topic in the future as litigation over NOP ensues.

Availability:

- For subscription information, see Agricultural Law Press website at <http://www.agrilawpress.com/>.

## 5.2. Trade Journals

Food Chemical News, Food Chemical News, Inc., 1959-

This *weekly* periodical provides information on food regulation, including synopses of activity recorded in the Federal Register.

Example:

- *Organic Farming Booming, Fueled by Consumer Demand*, 41 No. 6 FOOD CHEMICAL NEWS 17, Mar. 29, 1999.

Availability:

- Westlaw, Database Identifier: FOODCHEMN (9/5/1994 through current).
- Free 30-day subscription available at <http://www.foodchemicalnews.com/>.

The Food Institute Report, The Food Institute, 1982-

This *weekly* periodical reports on government activity involving the food industry, and includes coverage of the USDA, the FDA, as well as of food-related Federal Register notices.

Examples:

- *Organic Certifying Process at Heart of New Lawsuit*, Aug. 23, 2004 FOOD INST. REP. 9.
- *USDA Drops New Organic Regulations*, May 31, 2004 FOOD INST. REP. 9.

Availability:

- Westlaw, Database Identifier: FOODIR (12/5/1994 through current).
- The Food Institute website has a searchable index of articles: <http://www.foodinstitute.com/nonfindex.cfm>.

Food & Drink Weekly, Sparks Companies, Inc., 1985-

This weekly periodical provides coverage of the food industry, including federal legislative and regulatory action.

Example:

- *USDA Unveils New Organic Standards*, 8 No. 42 FOOD & DRINK WKLY. 1, Oct. 28, 2002.

Availability:

- Westlaw, Database Identifier: FDDWKLY (8/21/1995 through current).

The Kiplinger Agriculture Letter, The Kiplinger Washington Editors, Inc., 1986-  
The Kiplinger Agriculture Letter covers agriculture and agribusiness, including information on the actions of the USDA, legislative policy, and new food processing and marketing methods.

Example:

- *USDA Will Improve Its Oversight of the National Organic Program*, 76 No. 3 KIPLINGER AGRIC. LETTER, Feb. 4, 2005.  
\* No pagination available online.

Availability:

- Westlaw, Database Identifier: KIPAL (11/26/2003 through current).

### 5.3. Non-Legal Periodicals

Organic Farming Research Foundation Information Bulletin, Organic Farming Research Foundation, 1995- This newsletter is published by the Organic Farming Research Foundation, a nonprofit organization that sponsors organic agriculture research, provides information to organic producers, and educates policymakers on organic agriculture concerns.

Example:

- Joe Mendelson, *Who's Watching the USDA's Organic Henhouse?*, 12 ORGANIC FARMING RES. FOUND. INFO. BULL. 1-8, Winter 2003.

Availability:

- Available on the Organic Farming Research Foundation website at <http://www.ofrf.org/publications/news/index.html>.

Journal of Sustainable Agriculture, The Food Products Press, Inc., 1990-

This professional journal covers the issues affecting sustainable agriculture. The journal features articles on economic and social aspects of sustainable and organic agriculture, as well as pieces on technological advancements, energy use, and integrated pest management programs.

Example:

- David S. Conner, *Consumer Preferences for Organic Standards: Does the Final Rule Reflect Them?* 23 No. 3 J. SUSTAINABLE AGRIC. 125-143 (2004).

Availability:

- Consult home institution/regional consortia catalogs for availability.
- Articles/issues may be purchased at <http://www.haworthpressinc.com/web/JSA/>.

Journal of the American Veterinary Medical Association (JAVMA), American Veterinary Medical Association, 1915- JAVMA discusses current issues in veterinary medicine. Although this journal may seem an unlikely source of information on this topic, it addresses organic livestock concerns.

Example:

- *National Standards for Organic Foods Proposed*, 216 No. 9 J. AM. VET. MED. ASSOC. 1381, May 1, 2000.

Availability:

- The American Veterinary Medical Association makes articles available online at <http://www.electronicipc.com/JournalEZ/toc.cfm?code=0429002>. Also included on this webpage is a searchable index. A search for “organic” yields several useful articles.

Renewable Agriculture and Food Systems (formerly known as American Journal of Alternative Agriculture), Henry A. Wallace Institute/CABI Publishing, 1986-

This multi-disciplinary journal discusses scientific, technical, economic, and social research relating to sustainable agriculture. From 1986-2001, the journal was published by the Henry A. Wallace Institute for Alternative Agriculture/Center for Agricultural & Environmental Policy at Winrock International. In November 2001, ownership was transferred to CABI Publishing, an international nonprofit publisher.

Example:

- T.R. Fetter & J.A. Caswell, *Variations in Organic Standards Prior to the National Organic Program*, 17 No. 2 AM. J. OF ALTERNATIVE AGRIC. 55-74 (2002).

Availability:

- Consult home institution/regional consortia catalogs for availability.
- Articles/issues may be purchased at <http://www.cabi-publishing.org/>.

## 6. FINDING PERIODICAL ARTICLES

### 6.1. Legal Indices

#### 6.1.1. Index to Legal Periodicals & Current Index to Legal Periodicals

The Index to Legal Periodicals indexes more than 500 law journals, bar association publications, law reviews and government publications. It is available in print, or on Westlaw (database identifier: ILP; coverage from 1981) and Lexis (file-name: ILP; coverage from 1978). When using ILP, the following search string is useful:

organic /s farm! or food or agricultur!

Since there simply are not *that* many legal periodical articles concerning organic food regulation, **using a full-text search such as the one above is more inclusive than relying on a segment (Lexis) or field (Westlaw) search.** It is also important to note that because the online versions of ILP often provide links to full-texts of a particular article, this guide recommends using the online rather than the print versions. In addition, Westlaw provides access to the Current Index to Legal Periodicals (CILP), which enables the researcher to stay up to date with legal periodical articles published within the past eight weeks. Westlaw’s Current Index to Legal Periodicals database identifier is “CILP.”

#### 6.1.2. LegalTrac/LRI/CLI

LegalTrac includes article citations from legal periodicals, as well as law-related articles from business and mainstream periodicals. LegalTrac is also known as Current Law Index (print version) and as Legal Resource Index on Westlaw (database identifier: LRI; coverage from 1980) and on Lexis (file-name LGLIND; coverage from 1977).

## 6.2. Non-Legal Indices & Databases

### 6.2.1. AGRIS/CARIS

The AGRIS/CARIS database, located at <http://www.fao.org/agris/>, was created by the Food and Agriculture Organization of the United Nations in 1974, and is the global information system for the agricultural sciences and technology. Due to the international nature of this database, **search strings should be tailored to focus on articles involving the United States**, for instance:

organic and "United States"

sustainable and "United States"

### 6.2.2. Biological & Agricultural Index

The Biological & Agricultural Index provides indexing of over 250 periodicals, about 45 percent of which are devoted to agriculture. Journals range from popular to professional publications ordinarily found in larger research libraries. Westlaw provides access to the Biological & Agricultural Index (database identifier: B&A-INDEX) and has coverage from July 1983. Useful searches in the Biological & Agricultural Index for this topic include:

TI(organic) and agricultur! and regulat! or law or legislat!

organic /s agricultur! or food or farm!

### 6.2.3. Medline

Medline is a non-legal index that contains periodical articles relevant to this topic due to organic food's connection to nutrition and health. It is important to note that **searching in this database for "organic" without other modifying words will result in thousands of false hits**, as the word "organic" has its own unique meaning in the scientific and medical communities (e.g. organic chemistry is the study of carbon-based chemistry). As such, recommended search strings for this database include:

"organic farming" or "organic agriculture" or "organic food" and regulation

## 6.3. Westlaw Databases

Westlaw contains myriad databases that can be used to find legal periodicals, and non-legal periodicals including trade journals. Different databases can be used to target the desired type of resource. Pertinent databases may be found by using the IDEN and Database Wizard

methods described earlier in this section. The following is an annotated list of databases relevant to this topic. Following each annotated database are suggested search strings that can be used to find relevant articles. Please note that recommended search strings may vary depending on the database.

- Database Name: *Texts & Periodicals - All Law Reviews, Texts & Bar Journals*  
Database Identifier: TP-ALL  
Coverage: Varies by publication  
Content: The TP-ALL database provides access to articles and other documents from law reviews, legal texts, bar journals, CLE materials, and more.

Suggested search string:

“National Organic Program” or “Organic Foods Production Act”

- Database Name: *Andrews Food Health & Safety Litigation Reporter*  
Database Identifier: ANFOODLR  
Coverage from September 2004  
Content: The ANFOODLR database provides coverage of food safety and health related litigation. A search in this database revealed a recent article on the seminal case for this topic, *Harvey v. Veneman*, 396 F.3d 28 (1st Cir. 2005).

Suggested search string:

“National Organic Program” or “Organic Foods Production Act”

- Database Name: *Legal Newspapers*  
Database Identifier: LEGALNP  
Coverage varies by publication  
Contents: This database contains all the legal newspapers accessible through Westlaw.

Suggested search string:

“organic food” or “organic agricultur!” or “organic farm!” and atleast3(organic)

- Database Name: *Agriculture Industry News*  
Database Identifier: WNS-AG  
Coverage varies by publication through current  
Contents: This database contains news stories pertaining to agricultural companies.

Suggested search strings using the “*search only the headlines and lead paragraphs*” option or “*Hlead*” field:

HLD("National Organic Program")

HLD(“Organic Foods Production Act”)

HLD(organic and USDA) and atleast10(organic)

- Database Name: *Agriculture News*  
Database Identifier: AGRINEWS  
Coverage varies by publication  
Contents: AGRINEWS contains articles about agriculture and the USDA from newspapers, magazines, and newsletters.

Suggested search strings using the “*search only the headlines and lead paragraphs*” option or “*Hlead*” field:

HLD("National Organic Program")

HLD(“Organic Foods Production Act”)

HLD(organic and USDA) and atleast10(organic)

- Database Name: *Foods, Beverages and Tobacco Industry News*  
Database Identifier: WNS-FD  
Coverage varies by publication  
Contents: This database contains news about companies involved in the food and related industries.

Suggested search strings using the “*search only the headlines and lead paragraphs*” option or “*Hlead*” field:

HLD("National Organic Program")

HLD(“Organic Foods Production Act”)

HLD(organic and USDA) and atleast10(organic)

#### 6.4. Lexis Files

Although Westlaw is more useful for finding periodical articles because of its numerous databases devoted to agricultural/food trade journals and industry bulletins, Lexis does have specific files containing legal periodical articles. The best way to find these files is by clicking on the “*Secondary Legal*” folder within the “*Legal*” tab. The most useful files and appropriate search strings are enumerated below:

- File: *Law Reviews, CLE, Legal Journals & Periodicals, Combined*  
File-Name: LGLPUB  
Coverage varies by publication  
Contents: This file contains articles from law reviews, CLE materials, legal journals, and periodicals.

Suggested search strings:

"National Organic Program" and atleast10(organic)

TITLE (organic and agricultur! or food or farm!) and law or legislat! or regulat!

- File: *Combined Legal Newsletters*  
File-Name: NWLTRS  
Coverage varies by publication  
Contents: This file contains legal newsletters.

Suggested search string:

"National Organic Program"

## 6.5. Annotated Codes & Citator Services

Since articles that cite the Organic Foods Production Act are likely to be relevant, this guide strongly recommends checking an annotated version of OFPA, as well as KeyCiting the Act to locate relevant articles.

## 6.6. Accepting Help from Others: Bibliographies & Footnotes

Last but not least, researchers should check bibliographies and footnotes of books and articles relevant to the topic. This is a cost and time effective way of locating citations to pertinent articles.

## 7. SUGGESTED PERIODICAL ARTICLES

This annotated list of periodical articles is divided into two major sections. The first section discusses articles that cover recent developments in organic food regulation. The second section contains articles that document the development of the 1990 Organic Foods Production Act and the implementation of the National Organic Program. These older articles are still cited frequently by more recent publications, despite the fact that many of the older articles were written before the complete implementation of the NOP.

### 7.1. Recent

#### 7.1.1. Legal Periodical Articles

*Organic Foods Production Act Plaintiff Wins Two Challenges to USDA's Organic Labeling Rules: Harvey v. Veneman*, 1 No. 6 ANDREWS FOOD HEALTH & SAFETY LITIG. REP. 6, Feb. 10, 2005.

This article summarizes Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005), in which the court held that although OFPA allows limited use of synthetic substances during the production of some organic products, the Act prohibits their use during the later stages of handling and processing.

Carter Dillard, *False Advertising, Animals, and Ethical Consumption*, 10 ANIMAL L. 25-62 (2004).

Written by an attorney who served as counsel with the U.S. Department of Justice and legal advisor to the U.S. Department of Homeland Security, this article explores the interplay of law and animal consumption. Although the focus of the article is not on this topic, it discusses 7 C.F.R. § 205.239 (2003), which requires that organic livestock be kept in conditions conducive to the “health and natural behavior of animals.”

Lauren Zeichner, *Product v. Process: Two Labeling Regimes for Genetically Engineered Foods and How They Relate to Consumer Preference*, 27 ENVIRONS ENVTL. L. AND POL’Y J. 467-489 (2004).

This student-authored University of California at Davis law review article discusses how the FDA and USDA have approached genetically engineered foods. The author notes that (1) the USDA has decided that no food containing genetically engineered products can be labeled organic because the process of genetic engineering is incongruous with the National Organic Program; and (2) the FDA has declined to label genetically engineered foods because they are not materially distinct from their naturally occurring counterparts. This article also provides good references to primary sources of law concerning OFPA and NOP.

Andrew J. Nicholas, *As the Organic Food Industry Gets Its House in Order, the Time Has Come For National Standards for Genetically Modified Foods*, 15 LOY. CONSUMER L. REV. 277-299 (2003).

This student-authored piece discusses how the USDA’s regulation of organic foods should serve as a model upon which to base national standards for genetically modified foods. To this end, the article provides a solid overview of organic food regulation, including sections on certification, authentication, and labeling.

Sally J. Kelley, *Agricultural Law: A Selected Bibliography, 2001*, 55 ARK. L. REV. 303-400 (2002).

This law review article by Librarian and Research Professor Sally J. Kelley is a bibliography of articles and books pertaining to agricultural law. Professor Kelley lists useful periodical references for organic agriculture in the following sections of the bibliography: “*Alternative Agriculture*,” “*Animal Law*,” “*Intellectual Property*,” “*Labeling*,” and “*Marketing/Sales*.” Although the list is not annotated, Professor Kelley provides a brief overview of research techniques in the preface.

#### 7.1.2. Trade Journal Articles

*Organic Certifying Process at Heart of New Lawsuit*, August 23, 2004 FOOD INST. REP. 9.

This article summarizes the law suit filed recently by the Center for Food Safety (CFS) against the USDA seeking the release of documents discussing the credentials of the National Organic Program’s organic food certifiers. It also provides a link to the complaint filed by CFS,

<http://www.foodinstitute.com/organicsuit.htm>.

*USDA Drops New Organic Regulations*, May 31, 2004 FOOD INST. REP. 9.

This article details the USDA's rescinding of an organic food guideline that would have enabled producers to use pesticides with chemical ingredients if "reasonable efforts" could not decipher their chemical make-up. These rescinded guidelines also would have permitted milk from antibiotic-treated cows to be labeled as organic if the animal had not been given antibiotics for twelve months. The Food Institute Report's articles are brief, but useful for keeping up with the current state of the law.

### 7.1.3. Non-Legal Periodical Articles

David S. Conner, *Consumer Preferences for Organic Standards: Does the Final Rule Reflect Them?* 23 No. 3 J. SUSTAINABLE AGRIC. 125-143 (2004).

This article compares consumer preferences and expectations with the NOP Final Rule. The paper reports on a survey that indicates consumers of organic products prefer stringent standards and will pay more to keep genetically modified organisms, municipal sewage sludge, and irradiation out of organic food. The author is a research specialist at the Emerging Markets Program and Northeast Organic Network in the Department of Applied Economics and Management at Cornell University.

Mikael Klintman & Magnus Bostrom, *Framings of Science and Ideology: Organic Food Labeling in the U.S. and Sweden*, 13 No. 3 ENVIRONMENTAL POLITICS 612-634, Sept. 2004.

This academic and very theoretical article compares and contrasts the organic food labeling requirements in Sweden and the United States. The article examines the different ways organic labeling resolution was achieved, and stresses the notion that the relationship between ecology and politics does not necessarily mean that policy decisions are capricious or uninformed.

## 7.2. Classic

### 7.2.1. Legal Periodical Articles

Cindy Joffe Hyman, *Food for Thought: Defending the Organic Foods Production Act of 1990 against Claims of Protectionism*, 14 EMORY INT'L L. REV. 1719-1763 (2000).

This student-authored law review article argues against the assertion that OFPA violates international trade agreements in its exclusion of imports that do not comply with its organic classification standards. In so arguing, the author provides a good discussion of OFPA with respect to the global community.

Benjamin N. Gutman, *Ethical Eating: Applying the Kosher Food Regulatory Regime to Organic Food*, 108 YALE L. J. 2351-2384 (1999).

This article argues that required uniformity is not a good regulatory scheme for the organic food industry because a person's decision to eat organic products is largely ethically based. Gutman alleges that "organic" refers to personal values and philosophical beliefs regarding an individual's relationship with the environment, and not just the composition of a product. He maintains that there is not always consensus among those who grow and buy organic products as to how to define "organic" and thus mandatory uniformity robs the public of their right to purchase food grown according to individual philosophies and values.

Neil D. Hamilton, *The Role of Law in Promoting Sustainable Agriculture: Reflections on Ten Years of Experience in the United States*, 3 DRAKE J. AGRIC. L. 423-431 (1998).

This article is authored by Professor Neil Hamilton, who also serves as the Director of the Agricultural Law Center of Drake University Law School. The writing is based on a presentation given at the All World Union of Agricultural Law Professors 5th World Congress on Agrarian Law, May 19-21, 1998, Porto Alegre, Brazil. This essay is academic, and would not be useful for the practitioner interested in learning the intricacies of organic food regulation. Nonetheless, it provides an interesting look at how sustainability is an integral part of agriculture policy.

Kenneth C. Amaditz, *The Organic Foods Production Act of 1990 and its Impending Regulations: A Big Zero for Organic Food*, 52 FOOD DRUG L. J. 537-559 (1997).

This article, authored by a law student at the University of Virginia School of Law, won Second Place in the 1996-1997 H. Thomas Austern Memorial Writing Competition sponsored by the Food and Drug Law Institute. It contains a discussion on the importance of nationwide regulation of organic food, and provides an in depth overview of OFPA, including focuses on the establishment of the National Organic Standards Board, the definition of "organic," organic food labeling, state organic food regulation, the interplay between OFPA and existing federal food safety laws, and more.

Timothy J. Sullivan, *Implementation of National and International Organic Certification and Labeling Standards*, 7 S.J. AGRIC. L. REV. 43-71 (1997).

This article is written by a former legal technical advisor to the National Organic Standards Board and member of the U.S. delegation to the Codex Alimentarius Committee on Food Labeling. It discusses the origins of OFPA, its purpose, and its requirements. The article provides a particularly strong description of the role of the National Organic Standards Board.

Terence J. Centner & Kyle W. Lathrop, *Differentiating Food Products: Organic Labeling Provisions Facilitate Consumer Choice*, 1 DRAKE J. AGRIC. L. 30-50 (1996).

This article is coauthored by Terence Centner (LL.M. 1982, University of Arkansas; J.D. 1976, SUNY at Buffalo) and Kyle W. Lathrop (LL.M. expected June, 1996, University of Arkansas; J.D. 1992, University of Iowa). It contains a thorough discussion of OFPA from pages 41-49, with a focus on labeling requirements, approved and prohibited substances, reporting requirements, and organic imports.

#### 7.2.2. Non-Legal Periodical Articles

*USDA Releases Organic Food Guidelines*, 218 No. 4 J. AM. VET. MED. ASSOC. 489, Feb. 15, 2001.

This article reports on livestock related aspects of the NOP Final Rule. This brief piece provides a summary of the organic requirements pertaining to animals used for meat, milk, eggs, or any other animal-derived product.

## IV. STATUTORY & LEGISLATIVE HISTORY RESEARCH

1. OVERALL USEFULNESS RATING: 

2. OVERVIEW

Agriculture legislation is codified in Title 7 of the United States Code. The Organic Foods Product Act (OFPA), 7 U.S.C. § 6501-6523, Pub. Law 101-624, was Title XXI of the Food, Agriculture, Conservation and Trade Act of 1990. OFPA provided for the establishment of the National Organic Program by the USDA.

This section explores methods of finding relevant statutory law, as well as a discussion of pertinent materials. In addition, various means of finding compiled legislative histories will be addressed. At present, there are not many cases or USDA decisions interpreting OFPA, rendering the Act's legislative history an important indicator of statutory construction. As will be discussed later in this section, the First Circuit directly invoked OFPA's legislative history in organic food regulation's seminal case, Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005).

3. RAPID RESULTS

3.1. U.S.C.A. Westlaw's online annotated version of the United States Code provides citations and hypertext links to myriad resources that can be used to interpret the statutory language of OFPA.

3.2. CIS. Available in print or online, CIS is the most comprehensive resource of already compiled legislative histories.

4. STATUTORY RESEARCH

4.1. The United States Code: Official vs. Annotated

The annotated versions of the Code are more useful than the official United States Code (U.S.C.) for this, or virtually any topic because they contain (1) annotations of court cases interpreting various sections of the law; (2) citations to the Code of Federal Regulations; and (3) references to publications such as law reviews. Annotated versions of the Code are a centralized source of information for a topic that has its roots in statutory law, and not case law. Thus, the majority of this sub-section addresses annotated versions. However, should the researcher of this topic, for whatever reason, wish to view pertinent sections of the U.S.C., consult the Compilations of Agricultural Law website from the Senate Committee on Agriculture, Nutrition, and Forestry, [http://agriculture.senate.gov/Legislation/Compilations/compilations\\_entry.html](http://agriculture.senate.gov/Legislation/Compilations/compilations_entry.html) for a non-annotated version of OFPA.

4.1.1. United States Code Annotated

4.1.1.1. Using U.S.C.A.

United States Code Annotated (U.S.C.A.) is the annotated version of the Code published by West Group; the database identifier is aptly designated “USCA.” Since federal regulation of organic food has its roots in OFPA (7 U.S.C. §§ 6501-6523), this guide recommends using Westlaw’s “*Find Citation*” function to retrieve 7 U.S.C.A. § 6501; from there, the “*Documents in Sequence*” feature can be used to browse other relevant sections.

Should the researcher wish to search for other statutes that may deal with organic products, the following search string within Westlaw’s U.S.C.A General Index database (identifier: USCA-IDX) is suggested:

“organic food” or “organic agricultur!” or “organic farm!”

The most useful result from this search is “*US Index: Agricultural Products*,” which can be browsed using the “*Term*” button.

#### 4.1.1.2. U.S.C.A. Annotations

The U.S.C.A. annotations include links to relevant cases, law review articles, treatises and forms, text amendments, reports, congressional records, presidential messages as well as to administrative agency materials (including the Federal Register and agency decisions). For instance, annotations for OFPA included, but were not limited to:

- Full-text link to the seminal case Harvey v. Veneman, as well as court documents for this case, such as appellate petitions, motions, filings and briefs
- Forty-one law review citations with full-text links
- Several administrative agency documents

To monitor changes or updates to the annotated statute, the researcher can use: (1) citator services (KeyCite and Shepard’s); (2) notification services (in particular, KeyCite Alert); and (3) Westlaw’s U.S. Code Congressional and Administrative News – Public Laws database (identifier: USCCAN-PL). At the time of this writing, the annotated version of OFPA was current through P.L. 109-7, approved April 15, 2005.

#### 4.1.2. United States Code Service

##### 4.1.2.1. Using U.S.C.S.

United States Code Service (U.S.C.S.) is the annotated version of the Code published by Lexis (file-name: USCS). Similar to Westlaw, OFPA can be searched by retrieving 7 U.S.C.S. § 6501 through “*Get a Document*” and then using the “*Book Browse*” feature to view subsequent sections. The U.S.C.S. file can be searched for other laws involving organic food regulation by using the following search string:

“organic food” or “organic agricultur!” or “organic farm!”

#### 4.1.2.2. U.S.C.S. Annotations

Although U.S.C.S. provides some useful annotations (historical notes and cross references, amendments, and pertinent case law), **it is not as complete as U.S.C.A.**, which contains extensive annotations with links to law reviews, litigation materials, and more. The fact that U.S.C.S. contains fewer annotations is useful for topics with extensive and lengthy histories. However, since the NOP Final Rule was issued and fully implemented recently within the past four years, the expansiveness of U.S.C.A. is not overwhelmingly, and is, in fact, helpful for this topic.

### 4.2. Suggested Statutory Materials

#### 4.2.1. The Organic Foods Production Act

Organic Foods Production Act of 1990, 7 U.S.C. §§ 6501-6523, P.L. 101-624, Title XXI, § 2102, Nov. 28, 1990, 104 Stat. 3935

OFPA provides for the establishment of the National Organic Program by the Agricultural Marketing Service of the USDA and the creation of the National Organic Standards Board. 7 U.S.C. §§ 6501-6523 provides definitions, national standards, production and handling compliance requirements, state organic certification programs guidelines, prohibited crop production practices, accreditation program and certifying agent requirements, and more.

#### 4.2.2. Other Legislation Affecting Organic Food Regulation

Organic Agriculture Research and Extension Initiative, 7 U.S.C. § 5925b, P.L. 107-171, Title VII, § 7218, May 13, 2002, 116 Stat. 449

This statute enables the Secretary of Agriculture to make grants to sponsor research that facilitates the development of new organic agricultural methods of production, breeding and processing, as well as the identification of marketing or policy constraints on the expansion of organic agriculture.

Crop Insurance, 7 U.S.C. § 1508(a)(3)(A)(iii), P.L. 107-171, Title X, §§ 10001 to 10003, May 13, 2002, 116 Stat. 486

This statute establishes that insurance provided under this sub-section will not cover losses due to a producer's failure to adhere to sound farming practices, including sustainable and organic farming practices.

Commodity Promotion and Evaluation, 7 U.S.C. § 7401(e), P.L. 107-171, Title X, § 10607, May 13, 2002, 116 Stat. 514

This section exempts individuals who produce/market products that are 100 percent organic from payment for assessments under commodity promotion laws.

### 4.3. Pending and Recent Legislation

To track legislation that may impact organic food regulation, Thomas (<http://thomas.loc.gov/>) is an excellent and free resource. Simply do a “*Word/Phrase*” search for “organic food” in the Bill Text query box. At the time of this writing, such a search produced the Sewage Sludge in Food Production Consumer Notification Act (H.R. 207) introduced to the House of Representatives (109<sup>th</sup> Congress, 1<sup>st</sup> Session) by Jose Serrano (D-NY). This pending legislation would require consumer notification of food products produced from crops grown or livestock raised on land containing sewage sludge. This pending legislation is relevant to federal regulation of organic food in that it expressly provides that the National Organic Program’s prohibition on the use of sewage sludge in organic food production would not be modified.

Similarly, the researcher may visit the websites of congressional committees that address agricultural concerns:

*House of Representatives*

- Committee on Agriculture: <http://agriculture.house.gov/>
- Committee on Agriculture / Subcommittee on Conservation, Credit, Rural Development and Research: <http://agriculture.house.gov/inside/subcomms.html>
  - For a list of other agricultural subcommittees, see <http://agriculture.house.gov/inside/subcomms.html>.
- Committee on Appropriations: <http://appropriations.house.gov/>

*Senate*

- Senate Committee on Agriculture, Nutrition and Forestry: <http://agriculture.senate.gov/>
- Senate Committee on Agriculture/Subcommittees: <http://agriculture.senate.gov/sub.htm>
- Senate Committee on Appropriations: <http://appropriations.senate.gov/>
- Senate Committee on Appropriations/Subcommittee on Agriculture, Rural Development and Related Agencies: <http://appropriations.senate.gov/subcommittees/agriculture/topics.cfm?code=agri>

## 5. LEGISLATIVE HISTORY

### 5.1. Generally

Documents comprising a federal legislative history may include congressional bills, committee reports, committee hearings, congressional debates, committee prints, and presidential/executive agency documents. Due to ease of use, already-compiled legislative history sources are highly recommended and will constitute the focus of this section.

Although the legal significance of legislative history is disputed by some, this guide maintains that examining pre-enactment documents provides viable evidence of a legislature’s intended interpretation of a statute. Since federal organic food regulation was borne of a single statute, OFPA’s legislative history will likely prove to be a necessary and centralized resource for understanding, interpreting and assessing the validity of ensuing regulations. Indeed, **the**

**First Circuit found this to be the case** in Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005), where the court noted in Footnote 6:

“This interpretation of "total feed ration" is consistent with the legislative history of OFPA. *See* S.Rep. No. 101-357, 1990 U.S.C.C.A.N. 4656, 5222 ("Livestock must be fed 100 percent organically grown feed.... [Dairy] livestock [must] be raised according to all of the above standards for ... not less than one year.")”

## 5.2. Finding Legislative Histories

### 5.2.1. Print Sources

A popular print source for previously compiled federal legislative histories is Nancy Johnson’s Sources of Compiled Legislative Histories: A Bibliography of Government Documents, Periodical Articles, and Books, (Fred B. Rothman Publications, 1979, updated: 2003). This looseleaf provides references to electronic and print sources with compiled legislative histories for major laws. Since this resource is arranged chronologically by public law number, it is important to have the appropriate P.L. number before using (here, P.L. 101-624). Each entry offers a list of potentially relevant legislative history sources. For the Organic Foods Production Act, Sources of Compiled Legislative Histories listed the following source:

Eugene J. Gibson and William J. Shrenk, *The Enterprise for the American Initiative: A Second Generation of Debt-for-Nature Exchanges with an Overview of Other Recent Exchange Initiatives*, 25 GEORGE WASH. J. OF INT’L L. AND ECON. 1 (1991)

Although this source is listed, it only provides some discussion and a list of some cites relating to P.L. 101-624; **it does not contain actual reports, hearings, or debates**. This highlights the fact that using Sources of Compiled Legislative Histories is a two-step process; having found citations to relevant materials, the researcher must locate these sources.

### 5.2.2. Commercial & Online Sources

#### 5.2.2.1. Congressional Information Service (CIS)

Congressional Information Service (CIS) is the most comprehensive source for congressional information and legislative histories. Although CIS is available in print, using print versions is a multi-step process. Online versions are more user-friendly because of multiple search options and hypertext links. CIS is available through Congressional Universe and the file “CISLH” on Lexis.

The CISLH file is accessible through: Legal > Federal Legal U.S. > Legislative Histories & Materials > US - CIS Legislative Histories. To retrieve documents specific to the Food, Agriculture, Conservation, and Trade Act of 1990 (Title XXI constitutes OFPA), a simple search like the following is recommended as a first step:

PL (101-624) and "Organic Foods Production Act"

This search picks up the previously compiled legislative history of P.L. 101-624, which is useful, but over-inclusive. OFPA is one of 25 sub-sections comprising the Food, Agriculture, Conservation, and Trade Act of 1990. Fortunately, this search also picks up files of documents that are specific to Title XXI (OFPA). The following useful documents were retrieved by running the search listed above:

Legislative History of P.L. 101-624

Title: Food, Agriculture, Conservation, and Trade Act of 1990

CIS Number: 90-PL101-624

Date: November 28, 1990

Congressional Session: 101-2

- This resource is the legislative history for the Food, Agriculture, Conservation, and Trade Act of 1990, of which Title XXI represents the Organic Foods Production Act. Again, this compiled legislative history is useful, but over-inclusive.

Hearing: Proposed Organic Certification Program

CIS Number: 91-H161-15

Source: Committee on Agriculture (House)

Committee Serial No. 101-56

Date: June 19, 1990

Congressional Session: 101-2

- These congressional hearings focus on provisions in OFPA requiring USDA to establish national standards and a certification program. Various witnesses discuss (1) problems with the proposed USDA certification program; (2) support for a national certification program for organic foods; and (3) recommendations for organic food standards. Full-text available through CIS Microfiche.

Hearing: Preparation for the 1990 Farm Bill, Part IV

CIS Number: 90-S161-16

Source: Committee on Agriculture, Nutrition, and Forestry (Senate)

S. Hrg. 101-259, pt. 4

Date: June 9 & 20, July 27, 1989, and Mar. 22 & 29, 1990

Congressional Session: 101-1; 101-2

- These congressional hearings also consider USDA's role in establishing a national organic program. Testimony includes discussions of (1) concerns regarding organic produce standards and certifications; (2) merits of establishing a national program; (3) opinions regarding organic produce certification; and (4) organic produce promotion programs. Full-text available through CIS microfiche.

Report: Food, Agriculture, Conservation, and Trade Act of 1990

CIS Number: 90-H163-14

Source: Committee on Agriculture (House)

H. Rpt. 101-916

Date: Oct. 22, 1990

Congressional Session: 101-2

- This Report discusses proposed purposes, definitions, compliance requirements, standards, prohibited substances and practices, animal production practices and materials, livestock identification, handling requirements, and more.

Report: Food, Agriculture, Conservation, and Trade Act of 1990

CIS Number: 90-S163-3

Source: Committee on Agriculture, Nutrition, and Forestry (Senate)

S. Rpt. 101-357

Date: July 6, 1990

Congressional Session: 101-2

- This Report recommends provisions establishing national organic standards, the National Organic Standards Board, and the National Organic Promotion Advisory Committee to advise USDA on organic produce marketing.

The researcher should also run a search for legislative histories and congressional documents that are not necessarily part of P.L. 101-624. For instance, the researcher should try a Terms & Connectors search for:

“organic food” or “organic agricultur!” or “organic farm!”

Documents retrieved with such a search include, but are not limited to:

Report: Food, Agriculture, Conservation, and Trade Act Amendments of 1991

CIS Number: 91-H163-7

Source: Committee on Agriculture (House)

H. Rpt. 102-175

Date: July 30, 1991

Congressional Session: 102-1

(Included in Legislative History of P.L. 102-237)

- Relevance to organic food regulation: P.L. 102-237 contains miscellaneous technical corrections to OFPA.

Legislative History of P.L. 108-11

Title: Emergency Wartime Supplemental Appropriations Act, 2003

CIS Number: 2003-PL108-11

Date: Apr. 16, 2003

Congressional Session: 108-1

- Relevance to organic food regulation: P.L. 108-11, Title II, §2104-2105 amended OPFA with respect to wild seafood requirements.

Legislative History of P.L. 105-185

Title: Agricultural Research, Extension, and Education Reform Act of 1998

CIS Number: 98-PL105-185

Date: June 23, 1998

Congressional Session: 105-2

- Relevance to organic food regulation: P.L. 105-185 affects the organic agriculture research and extension initiative of 7 U.S.C. § 5925b.

When using CIS through Congressional Universe, the researcher can search by public law number, subject, title, and more. Searching by P.L. 101-624 will be simultaneously over and under inclusive. Therefore, a “*subject*” search for several related search terms is advisable:

Subject: “organic food” or “organic agricultur!” or “organic farm!”

#### 5.2.2.2. Westlaw

Although not as complete as CIS, Westlaw’s Legislative History database (identifier: LH) and U.S. Code Congressional and Administrative News database (identifier: USCCAN) are solid resources for Senate and House reports and presidential signing statements. Using either the Legislative History or the USCCAN databases, run a “*topic*” fields search for OFPA’s public law number:

to(101-624)

It is important to note, however, that Westlaw does not contain committee hearings, which are an integral part of OFPA’s legislative history.

## V. ADMINISTRATIVE LAW

1. OVERALL USEFULNESS RATING: 

2. OVERVIEW

OFPA established the National Organic Program within the Agricultural Marketing Service of the United States Department of Agriculture. In turn, the NOP developed organic products standards and created a certification program based on the recommendations of the National Organic Standards Board (NOSB), a 15-member group appointed by the Secretary of Agriculture and consisting of farmers, handlers, retailers, consumers, scientists, environmentalists, and certifying agents. Since the Organic Foods Production Act provided that the NOP create, oversee and manage national standards, administrative agency materials are critical to researching this topic. Administrative law covers many different types of actions an agency may take, including rules or regulations, orders, licenses, advisory opinions and decisions. At present, **regulations and decisions are the most important administrative agency resources for this topic**. Accordingly, this section explores ways of finding relevant regulations and decisions, and discusses those that are particularly significant.

3. RAPID RESULTS

3.1. GPO Access. This non-fee internet resource provides easy access to the Federal Register and the Code of Federal Regulations.

3.2. *Today's News*, National Organic Program Website. The "*Today's News*" section of the NOP website contains a daily tally of all NOP and NOSB activities, from regulatory changes, to meeting schedules and minutes.

3.3. Agriculture Decisions. Accessible in print, on the World Wide Web, and through Westlaw and Lexis, this resource contains up-to-date USDA administrative decisions.

4. REGULATIONS

4.1. Sources of Federal Regulations

4.1.1. Generally

Sources of federal regulations include the Code of Federal Regulations (CFR) and the Federal Register (FR). While the FR is structured chronologically (like public laws), the CFR is organized by subject (like codified statutes). Accordingly this guide recommends starting administrative regulation research with the CFR before turning to the FR.

Although the CFR is more user-friendly because of its topical organization, the FR must be consulted for recent regulatory changes. The Federal Register is divided into four parts: (1) final regulations; (2) proposed regulations; (3) presidential documents; and (4) notices. The fact that the FR publishes proposed versions of regulations is relevant to this topic because proposed

rules regarding the NOP were published in the FR on December 16, 1997, and again on March 13, 2000.

#### 4.1.2. Code of Federal Regulations

The Code of Federal Regulations is published annually by the U.S. Government Printing Office in staggered increments. Title 7 (Agriculture) of the CFR is published every January 1<sup>st</sup>. The CFR is available in print, or online through GPO Access, Westlaw and Lexis. Updating the print version is a cumbersome process that involves checking the List of Sections Affected (LSA), looking through each monthly issue of the FR since LSA, and then consulting the parts affected table. Therefore, online and commercial versions of the CFR are recommended.

##### 4.1.2.1. GPO Access

The GPO Access CFR homepage, <http://www.gpoaccess.gov/cfr/index.html>, can be searched by keywords, CFR citation, or can be browsed by Title, Subtitle, and then Part. Relevant regulations for this topic may be found at: 7 C.F.R 205, and individual sections include:

*Table 1: 7 C.F.R. 205*

<b>Section</b>	<b>Sub-Part/Content</b>
§§ 205.1-205.2	A – Definitions
§§ 205.100-205.199	B – Applicability
§§ 205.200-205.299	C – Organic Production and Handling Requirements
§§ 205.300-205.399	D – Labels, Labeling, and Market Information
§§ 205.400-205.499	E – Certification
§§ 205.500-205.599	F – Accreditation of Certifying Agents
§§ 205.600-205.699	G – Administrative

Each individual section of 7 C.F.R. 205 can be accessed in HTML or PDF format at [http://www.access.gpo.gov/nara/cfr/waisidx\\_05/7cfr205\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/7cfr205_05.html).

##### 4.1.2.2. Westlaw

There are two suggested methods of accessing the CFR on Westlaw. First, one can perform a “*Find a Document*” by citation search for “7 C.F.R. 205.” Second, Westlaw’s CFR database (identifier: CFR), may be searched. It is important to note that regulations can be KeyCited. This is helpful because there is no annotated version of the CFR. Furthermore, KeyCite Alert, Westlaw’s document tracking and delivery service, can be used to track regulatory changes.

In addition to KeyCite Alert, Westlaw has the Regulation Tracking database (identifier: REGTRK), which is updated daily and tracks information for proposed and recently adopted administrative regulations. Regulation Tracking not only summarizes new regulations, but also provides status information, an administrative register citation, as well as contact information for the sponsoring agency. A useful Terms & Connectors search string for this database is:

## “National Organic Program”

### 4.1.2.3. Lexis

The Lexis CFR database (file-name: CFR) can be searched in its entirety, or it can be narrowed through its table of contents categories, which include Title, Sub-Title, Chapter, Sub-Chapter, Part, and Sub-Part. For this topic, the table of contents should be searched by selecting the following:

- (1) Title 7 – Agriculture;
- (2) Sub-Title B – Regulations of the Department of Agriculture;
- (3) Chapter 1 – Agricultural Marketing Service H1 (Standards, Inspections, Marketing Practices), Department of Agriculture;
- (4) Sub-Chapter M – Organic Foods Production Act Provisions;
- (5) Part 205 – National Organic Program;
- (6) Sub-Part A – Definitions, Sub-Part B – Applicability, Sub-Part C – Organic Production and Handling Requirements, Sub-Part D – Labels, Labeling, and Market Information, Sub-Part E – Certification, Sub-Part F – Accreditation of Certifying Agents, and Sub-Part G – Administrative.

Similar to Westlaw’s KeyCite, Lexis’s Shepard’s can be used to “annotate” 7 C.F.R. 205. For instance, when 7 C.F.R. 205.2 is Shepardized, Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005) is referenced as a citing decision.

### 4.1.3. Federal Register

#### 4.1.3.1. GPO Access, Westlaw, & Lexis

Any administrative rule or regulation must be published in the Federal Register for it to have legal effect. Published each weekday, the Federal Register is accessible through the same means as is the CFR: GPO Access, Westlaw and Lexis.

- GPO Access’s Federal Register Main Page is located at <http://www.gpoaccess.gov/fr/index.html>.
- Westlaw’s Federal Register database identifier is “FR.”
- Lexis’s Federal Register file-name is “FEDREG.”

The Federal Register is of particular importance to this topic because it is the only official source of proposed regulations. NOP regulations went through two significant incarnations before the Final Rule. Regulations were initially proposed on December 16, 1997 (62 FR 65850). This initial proposal met with harsh criticism, *receiving 275,000 comments*, most of which were negative. (NB: The National Organic Program website provides the text of these comments in its “NOP Proposed Rule: 1997 Public Comments Form Letters and Postcards Received” section, located at <http://www.ams.usda.gov/nop/archive/1997Comments/1997FormLetters.html>.)

Revised regulations were again proposed on March 13, 2000 (65 FR 13512) and were better received. The Final Rule with request for comments was published December 21, 2000 (65 FR 80548), with an implementation date of April 21, 2001 and full compliance required by October 21, 2002.

#### 4.1.3.2. The National Agricultural Law Center's Federal Register Digest

Another way to stay current with the FR is through The National Agricultural Law Center's Federal Register Digest, which is available online at <http://www.nationalaglawcenter.org/reporter/registerdigest/>. This digest not only provides summaries of many agricultural law regulatory changes published in the Federal Register since Jan. 1, 2002, but also includes an easy to use index organized by agency/department (for this topic, select "*Agricultural Marketing Service*"). This leads to the Agricultural Marketing Service section of the Federal Register Digest, located at <http://www.nationalaglawcenter.org/reporter/registerdigest/ams/>. From there, a web browser "Find" feature can be used to search for "organic." Although the Federal Register Digest is an easy-to-use, frequently updated resource, **not all regulations are reported, only those with significant legal impact**; accordingly, it is not a better resource for regulations than the Federal Register, itself.

An example of a relevant listing in the Federal Register Digest is a summary of 70 FR 2763 (January 14, 2005) (final rule to be codified at 7 C.F.R. 900), which implements provisions of the 2002 Farm Bill exempting handlers who operate under an NOP approved organic process system and handle/market products that are 100 percent organic from paying assessments for market promotion activities.

#### 4.1.3.3. The CERIS Federal Register Agriculture Archive

Perdue University's Center for Environmental and Regulatory Information Systems (CERIS) maintains the Federal Register Agriculture Archive, located at <http://www.ceris.purdue.edu/fedweb/index.html>. This site archives agricultural related FR publications by both date and subject, and provides hypertext links to full-text. The site contains archives from 2000 through current, and is updated daily.

## 5. TRACKING NOP & NOSB NEWS

In order to track the day-to-day activities of the National Organic Program and the National Organic Standards Board, the NOP website provides a "*Today's News*" section located at <http://www.ams.usda.gov/nop/TodaysNews.html>. This section tracks news, meetings, and press releases occurring within the past four months. For news posted more than four months ago, the website provides the "*Today's News Archives*" located at <http://www.ams.usda.gov/nop/archive/TodaysNewsArchive.html>.

Items listed in the "*Today's News*" and "*Today's News Archives*" sections include: press releases, FR notices, NOSB task force reports, contact information, and NOSB meeting transcripts and recommendations. For example, the "*Today's News*" sections for March 23, 2005 included the following news items:

- “Transcripts for the February/March 2005 NOSB Meeting have been posted to the NOSB site” (with a hypertext link to PDF files of those transcripts located at <http://www.ams.usda.gov/nosb/transcripts/transcripts.html>).
- “New members to the National Organic Standards Board have been added to the NOSB members page” (with a hypertext link to a current list of NOSB membership located at <http://www.ams.usda.gov/nosb/members.html>).

## 6. ADMINISTRATIVE DECISIONS

### 6.1. Sources of Administrative Decisions

#### 6.1.1. Agriculture Decisions

Agriculture Decisions, a compilation of decisions/orders issued for the USDA according to various statutes and regulations, appears in several forms:

- Print: Agriculture Decisions  
U.S. Department of Agriculture, Washington, D.C., 1942-  
LC #: KF 1681 .A617x

Decisions are organized according to the specific act at issue. Although updated regularly, online versions will be more current.

- Online (Non-Fee): USDA Office of Administrative Law Judges website  
<http://www.usda.gov/da/oaljdecisions/>

This website provides Agriculture Decisions in PDF and HTML format. The website has a search engine and an advanced search feature.

- Commercial: Westlaw & Lexis

#### *Westlaw*

Database Name: United States Department of Agriculture Decisions

Identifier: USDA

Coverage from 1977

Recommended Search: Fields search for “DN(OFPA)”. Decision docket numbers are preceded by the acronym of the Act at issue. Accordingly, this is a well-targeted method of finding relevant decisions.

#### *Lexis*

Database Name: Agriculture Decisions

Identifier: USDA

Coverage from 1987

Recommended Search: Segment search for “NUMBER(OFFPA)”. Again, since the acronym of the relevant Act precedes the docket number, this search will pull only the most relevant decisions.

#### 6.1.2. The AgLaw Reporter *USDA Judicial Officer Decisions*

The National Agricultural Law Center’s online periodical The AgLaw Reporter contains a section entitled “*USDA Judicial Officer Decisions*” that chronicles USDA decisions and provides full-text links. This section has an index based on the various acts under which the decisions are made, such as “*Organic Foods Production Act*” and can be found at <http://www.nationalaglawcenter.org/decisions/#ofpa>.

#### 6.2. Suggested Administrative Decisions

Since final regulations have only recently been promulgated, there is only one administrative decision directly on point. The methods discussed above will be able to locate future decisions, which will no doubt ensue now that regulations have been finalized.

In re Massachusetts Independent Certification, Inc.  
OFFPA Docket No. 03-0002  
Order Dismissing Petitioner's Appeal (April 27, 2004)

In this decision, the Judicial Officer concluded that he did not have jurisdiction over the proceeding and dismissed petitioner’s appeal. This decision is based on the Agricultural Marketing Service Administrator’s decision to overrule the Massachusetts Independent Certification, Inc.’s (MICI) denial of organic certification to egg producer The Country Hen. MICI, a NOP/OFFPA organic certifying agent, denied certification to The Country Hen because the applicant did not provide its birds with access to the outdoors, a requirement under NOP regulations. Nonetheless, the Administrator directed MICI to issue an organic certificate, prompting MICI to file an appeal with the USDA challenging the Administrator’s authority to overrule MICI and order the certifying agent to issue certification. MICI bases its right to appeal under both OFFPA and the Constitution’s Due Process clause.

Relevant litigation documents are located on the website of the Farmer’s Legal Action Group, Inc. (FLAG) at <http://www.flaginc.org/news/MICI/MICI.htm>. FLAG is representing MICI in this matter, and provides hypertext links to pertinent orders, complaints, briefs, and petitions.

## VI. INTERNET RESOURCES

1. OVERALL USEFULNESS RATING: 

2. OVERVIEW

The internet provides a wealth of information on federal regulation of organic food. Organic food labeling standards have been in place for only a few years; accordingly, recent information is most readily available through websites that are updated frequently.

Government and non-government websites are both useful sources. Non-governmental websites provide particularly strong information on the socio-economic, ecological, and political issues surrounding organic food regulation, and present this information in an easy-to-understand manner. They are also a great source for electronic research guides and bibliographies on the topic. Government websites not only provide primary sources of law, but also outline, summarize and analyze the current state of federal organic food regulation.

A few words of caution when relying on the internet: (1) the credibility of information provided on non-government websites should be carefully assessed; (2) the researcher should always check when a website was most recently updated; and (3) the researcher should use a website not only for the information it summarizes, but also for the external links it may provide.

3. RAPID RESULTS

3.1. Search Engines. The easiest way to find relevant websites is through a search engine, such as Google, or the agriculture-specific search engine, Web-Agri.

3.2. USDA National Organic Program Website, <http://www.ams.usda.gov/nop/indexNet.htm>. This government website provides the most comprehensive, reliable information available online pertaining to every aspect of federal regulation of organic food.

4. SEARCH STRATEGIES: WEB-AGRI, GOOGLE & YAHOO

Search engines are useful ways of finding pertinent websites. The most useful search engines for this topic are Web-Agri (<http://www.web-agri.com/>) and Google ([www.google.com](http://www.google.com)). **Web-Agri is an agriculture-specific search engine** in which the researcher can look for terms within over 750,000 agricultural web pages. Simple searches for “National Organic Program” and “Organic Foods Production Act” are useful search strings for this search engine.

Google is another good resource because of its hierarchical web directory and comprehensive search capabilities. Google’s web directory provides categorization based on subject. For this topic, the following represent the most relevant hierarchical classifications:

- Society > Issues > Environment > Food and Drink > Organic Food
- Science > Agriculture > Sustainable Agriculture > Organic Farming

Yahoo, [www.yahoo.com](http://www.yahoo.com), provides a web directory similar to Google's. The following Yahoo hierarchies proved the most relevant for this topic:

- Directory > Science > Agriculture > Organic Farming
- News Front Page > Full Coverage > World > Farming and Agriculture

To avoid missing websites that may not have been classified within the above web directory categories, the researcher should also use Google's powerful search engine. Google's advanced search capabilities enable the researcher to search for all of the search terms, the exact phrase, or at least one of the words typed in. In addition, the researcher can search only those websites that have been updated within a chosen period of time. Useful search strings include:

"National Organic Program"

"Organic Foods Production Act"

"organic food" OR "organic farming" OR "organic agriculture"

"agricultural law on the internet"

- Interestingly, this last query yielded many web-based organic food regulation research guides and directories.

Although Google and Yahoo are powerful search engines, Web-Agri should not be overlooked because it enables the researcher to search within hundreds of thousands of websites devoted to agriculture. The fact that the search is already specific to agriculture permits the researcher to forgo hierarchical directories. It also reduces the likelihood of false hits.

## 5. SUGGESTED WEBSITES

### 5.1. Government

*The National Organic Program*  
[www.ams.usda.gov/nop/](http://www.ams.usda.gov/nop/)

The USDA's National Organic Program official website is the most comprehensive, credible, up-to-date source of information on this topic. The NOP website features several topical categories and provides information appropriate for consumers, producers, agricultural law practitioners, and policymakers. The following sections of the NOP website are useful to the researcher of this topic:

- The National Organic Program Regulations & Guidelines,  
<http://www.ams.usda.gov/nop/NOP/standards.html>

This section of the website provides straightforward, current regulatory information through links to pages that address the following:

- NOP Standards,  
<http://www.ams.usda.gov/nop/NOP/standards/StandardsNoScript.htm>

- National List of Allowed and Prohibited Substances,  
<http://www.ams.usda.gov/nop/NationalList/ListHome.html>
  - Policy Statements, <http://www.ams.usda.gov/nop/NOP/PolicyStatements.htm>
  - Trade Issues, <http://www.ams.usda.gov/nop/NOP/Trade.html>
  - Decision Making Procedures for the National Organic Program,  
<http://www.ams.usda.gov/nop/NOP/DecisionMaking.html>
  - Organic Foods Production Act of 1990 (Full Text),  
<http://agriculture.senate.gov/Legislation/Compilations/AgMisc/OGFP90.pdf>
- Consumer Information,  
<http://www.ams.usda.gov/nop/Consumers/Consumerhome.html>.

This section of the NOP website is devoted to providing information to consumers or potential consumers of organic food by addressing topics that include:

- Organic Food Standards and Labels: The Facts,  
<http://www.ams.usda.gov/nop/Consumers/brochure.html>
  - NOP Background Information,  
<http://www.ams.usda.gov/nop/FactSheets/Backgrounder.html>
  - Fact Sheets, <http://www.ams.usda.gov/nop/FactSheets/FactSheetsHome.html>
  - Compliance and Enforcement,  
<http://www.ams.usda.gov/nop/Compliance/ComplianceHome.html>
  - Links to Other Sources of Organic Information,  
<http://www.ams.usda.gov/nop/Consumers/Links.html>
- Producers, Handlers, Processors & Retailers,  
<http://www.ams.usda.gov/nop/ProdHandlers/ProdHandhome.html>.

This section addresses compliance issues affecting those involved in the production or handling of organic products. Due to its emphasis on standards and compliance, this section provides particularly useful information on this topic, including links to the following discussions:

- Labeling Packaged Products,  
<http://www.ams.usda.gov/nop/ProdHandlers/LabelTable.htm>
- Labeling Alcohol Beverage Containers,  
<http://www.ams.usda.gov/nop/ProdHandlers/AlcoholLabel.htm>
- Organic Production and Handling Standards Fact Sheet,  
<http://www.ams.usda.gov/nop/FactSheets/ProdHandE.html>
- Labeling and Marketing Information Fact Sheet,  
<http://www.ams.usda.gov/nop/FactSheets/LabelingE.html>

In addition, the NOP website provides links to news updates, NOP publications, compliance and enforcement procedures, a question-and-answer section, as well as archival information. Moreover, the site provides contact information for the NOP Program Manager:

Richard Mathews, Program Manager  
USDA-AMS-TMP-NOP, Room 4008 – South Building  
1400 Independence Avenue, SW

Washington, DC 20250-0020  
Phone: (202) 720-3252  
Fax: (202) 205-7808

*The National Organic Standards Board, USDA*  
<http://www.ams.usda.gov/nosb/>

The official website of the National Organic Standards Board provides the minutes from NOSB meetings, as well as NOSB recommendations, announcements, and future meeting dates. The site also provides a list of current NOSB members, but does not include their contact information.

*Economic Research Service, USDA*  
<http://www.ers.usda.gov/>

The Economic Research Service (ERS) is the USDA's primary source of economic information and research. The data collected and researched by ERS educates policymakers on economic and regulatory issues pertaining to agriculture, food, and rural development. The "Organic Farming and Marketing Briefing Room" of the ERS website is located at <http://www.ers.usda.gov/Briefing/Organic/>, and provides information on federal regulation of organic food through online features, recommended readings, data, and a question-and-answer section. The site also provides contact information for ERS:

1800 M Street NW  
Washington, DC 20036-5831  
Phone: (202) 694-5050  
Email: [service@ers.usda.gov](mailto:service@ers.usda.gov)

*The National Agricultural Library, USDA*  
<http://www.nal.usda.gov/>

The National Agricultural Library (NAL) was the departmental library for the USDA before becoming a national library in 1962. The NAL is the country's premier source for agricultural information for researchers, decision-makers and the general public. The NAL website is a critical resource for the researcher of this topic because it provides access to important agricultural databases, including: AGRICOLA, AgNIC, AGROS, CRIS, and more. In addition, the website provides contact information for NAL:

10301 Baltimore Avenue  
Beltsville, Maryland, 20705  
Phone: (301) 504-5755

*Alternative Farming Systems Information Center, NAL, USDA*  
<http://www.nal.usda.gov/afsic/>

The website for the Alternative Farming Systems Information Center (AFSIC), a subject-based information center of the National Agricultural Library, provides resources through links to full-text of the myriad USDA publications regarding organic food regulation. The site also contains bibliographies and resource guides on researching agricultural law. AFSIC contact information is provided on the website:

10301 Baltimore Avenue, Room 132  
Beltsville, MD 20705-2351  
Phone: (301) 504-6559  
Fax: (301) 504-6409  
Email: [afsic@nal.usda.gov](mailto:afsic@nal.usda.gov)

## 5.2. Non-Government

*ATTRA/National Sustainable Agricultural Information Service*  
<http://attra.ncat.org/>

The ATTRA/National Sustainable Agricultural Information Service is a partnership between the USDA and the nonprofit National Center for Appropriate Technology. Its website contains informational resources and publications on organic farming, as well as on related topics, including livestock, pest management and field crops. Since the website's information is intended for the sustainable agriculture community, and not just legal practitioners, it presents material in a thorough, yet not overly technical manner, which is useful for researchers new to this topic. The site contains background on organic regulation, certification, transition, livestock, control of pests, marketing, and more. In addition, it contains links to other organic farming sources of information, and includes ATTRA's two sustainable agriculture online newsletters, ATTRAnews and Weekly Harvest. The website also provides ATTRA's contact information:

P.O. Box 3657  
Fayetteville, AR 72702  
Phone: (800) 346-9140

*Organic Farming Research Foundation*  
<http://www.ofrf.org>

This website for the nonprofit Organic Farming Research Foundation (OFRF) offers a "*Frequently Asked Questions about Organic Farming*" section that addresses the definition of organic farming, the requirements/standards for organic agriculture, as well as the safety of organic food. OFRF also posts its Information Bulletin online. In addition, the site provides OFRF contact information:

P.O. Box 440  
Santa Cruz, CA 95060  
Phone: (831) 426-6606  
Fax: (831) 426-6670  
Email: [info@ofrf.org](mailto:info@ofrf.org)

*Organic Trade Association*

<http://www.ota.com/index.html>

The website for the Organic Trade Association, an organic industry business association, provides comprehensive information on every facet of federal regulation of organic food. The website also contains a good starting point for researchers who want a basic overview – the “*National Organic Rules Background*” provides information on the development of the National Organic Program and is available at <http://www.ota.com/standards/nop/norb.html>. OTA contact information is provided on the site:

P.O. Box 547  
Greenfield MA 01302  
Phone: (413) 774-7511  
Fax: (413) 774-6432  
Email: [info@ota.com](mailto:info@ota.com)

*Food and Agriculture Organization of the United Nations*  
<http://www.fao.org/>

The Food and Agriculture Organization (FAO) of the United Nations is devoted to helping developing and developed nations defeat hunger and improve food production/agriculture. Although the information provided on this website is often global in nature, there is information relevant specifically to the United States. The “*Organic Agriculture at FAO*” section of the site (located at <http://www.fao.org/organicag/frame2-e.htm>) is particularly useful. The website also provides contact information for FAO:

Viale delle Terme di Caracalla  
00100 Rome, Italy  
Telephone: (39) 06-57051  
Fax: (39) 06-570-53152  
Email: [FAO-HQ@fao.org](mailto:FAO-HQ@fao.org)

*University of California Sustainable Agriculture Research and Education Program*  
<http://sarep.ucdavis.edu/>

The University of California Sustainable Agriculture Research and Education Program is devoted to scholarship, research and education in sustainable and alternative agricultural systems. The Program serves decision-makers, professionals, farmers, ranchers, educators and consumers. Accordingly, its website contains extensive links to information on organic standards, certification, production and marketing. For instance, the website contains the Program’s [July 2004 BioControl/Organic Symposium Proceedings](http://sarep.ucdavis.edu/Organic/workgroup.htm), available at <http://sarep.ucdavis.edu/Organic/workgroup.htm>. The site also provides contact information for the Program:

1 Shields Avenue  
Davis, CA 95616  
Phone: (530) 752-7556  
Fax: (530) 754-8550  
Email: [sarep@ucdavis.edu](mailto:sarep@ucdavis.edu)

*The National Agricultural Law Center, University of Arkansas School of Law*  
<http://www.nationalaglawcenter.org/>

The National Agricultural Law Center, federally funded through the National Agricultural Library, conducts and sponsors research and provides information on agricultural and food law. The Center is staffed and its website maintained by professors, attorneys, agricultural specialists, and research fellows from the University of Arkansas School of Law Graduate Program in Agricultural Law. The website contains links and full-text to the Center's articles, notes, bibliographies, and case summaries. In addition, the website offers individual "Reading Rooms" organized by topic. The "NOP Reading Room" is located at (<http://www.nationalaglawcenter.org/readingrooms/organicprogram/>); it provides information on relevant statutes, regulations, case law, administrative law decisions, research publications and reference resources. The website also provides contact information for the Center:

1 University of Arkansas  
Fayetteville, AR 72701  
Phone: (479) 575-7646  
Fax: (479) 575-5830  
Email: [NatAgLaw@uark.edu](mailto:NatAgLaw@uark.edu)

### 5.3. Internet Research Guides/Legal Resources Collections

*Alternative Farming Systems Information Center, NAL, USDA*  
<http://www.nal.usda.gov/afsic/>

The AFSIC website (also described in section 5.1) contains many agricultural law reference lists and research guides. AFSIC's detailed guides include:

- "Organic Information Resources: What Are They? Where Are They? How Can I Find Them?" (<http://www.nal.usda.gov/afsic/ofp/orgfind.htm>)
- "Where to Find Sustainable Agriculture Research Online" (<http://www.nal.usda.gov/afsic/ofp/susagrsch.htm>)
- "Resources" (<http://www.nal.usda.gov/afsic/ofp/#resources>)

*The National Agricultural Law Center, University of Arkansas School of Law*  
<http://www.nationalaglawcenter.org/>

The National Agricultural Law Center webpage (also described in section 5.2) provides a very helpful "Reference Desk" section (<http://www.nationalaglawcenter.org/reference/>). This list of agriculture law resources includes links to relevant glossaries, bibliographies, journals, newsletters, associations, practice groups, research links, federal agencies, and other informational resources.

*The University of Kansas Wheat Law Library Agricultural Law Legal Research Guide*  
[http://www.ku.edu/%7Ekulaw/library/aglaw\\_res.html](http://www.ku.edu/%7Ekulaw/library/aglaw_res.html)

Although this January 2005 online research guide is brief and research methodology is not discussed, it contains an annotated list of several relevant agricultural law texts and treatises, casebooks, government documents, periodicals, bibliographies, Westlaw and Lexis databases, and non-fee internet sources.

*University of Arkansas Young Law Library/National Center for Agricultural Law Research Guides*

<http://www.uark.edu/~aglaw/bibguide/bibguides.htm>

This website contains three useful, relatively recent research guides compiled by Librarian and Research Professor Sally J. Kelley:

- *Agricultural Law Research Guide* (2003): This guide provides information on finding relevant primary law, treatises and loose-leaf services, journals, newsletters, statistics, and more, <http://www.uark.edu/~aglaw/bibguide/agref.htm>.
- *Agricultural Law on the Internet: A Guide* (2002): This guide provides information on internet-based agricultural research, <http://www.uark.edu/~aglaw/resourceguide.htm>.
- *Westlaw Databases Useful in Agricultural Law Research and How to Search Them* (2002): This guide provides information on agricultural Westlaw databases such as AGRICOLA, <http://www.uark.edu/~aglaw/bibguide/agwestdi.htm>.

## VII. ORGANIZATIONS

### 1. OVERALL USEFULNESS RATING:

### 2. OVERVIEW

There are countless non-profit and professional organizations devoted to sustainable agriculture, the organic food industry, and the legal needs of organic farmers. Names of organizations may be referenced in articles and books, or located through the use of the Encyclopedia of Associations, catalogs/Library of Congress subject headings, or online search engines. Organizations often provide information on organic farming requirements and practices through their websites or publications, which may include brochures, newsletters and conference materials.

### 3. RAPID RESULTS

3.1. Encyclopedia of Associations. Available in print, or through Westlaw and Lexis, this resource provides detailed information on tens of thousands of national and international organizations.

### 4. FINDING ORGANIZATIONS

#### 4.1. Encyclopedia of Associations

The Encyclopedia of Associations provides information on more than 81,000 nonprofit organizations. This resource is available in print (published by Thomson Gale), as well as through Westlaw and Lexis. Its Westlaw database identifier is “EOA” and its Lexis file-name is “ENASSC.” Both online versions carry the current edition. For purposes of this topic, useful Westlaw and Lexis search strings include:

organic and farm! or agricultur! or food

agricultur! or food and law or legal

#### 4.2. Online Catalogs

Through Library of Congress subject headings, online catalogs can also be used to locate relevant organizations. Suggested subject headings include:

- “organic farming – united states – directories”
- “natural foods industry – united states – directories”

#### 4.3. Search Engines

Relevant organizations can also be located through online search engines, such as Google, Excite, or LookSmart. The following is a recommended search string:

5. SUGGESTED ORGANIZATIONS

5.1. Legal

*American Agricultural Law Association (AALA)*

<http://aglaw-assn.org/>

P.O. Box 2025

Eugene, OR 97402-2025

Phone: (541) 485-1090

Fax: (541) 302-1958

The American Agricultural Law Association is a professional organization that addresses the agricultural community’s *law*-related needs. Members receive the Agricultural Law Update, a monthly newsletter providing legal updates on litigation, regulatory changes, and more. The AALA also sponsors yearly educational conferences for agricultural law practitioners. The next AALA sponsored conference will be held on October 7-8, 2005 in Kansas City, MO at the Country Club Plaza Marriot.

*Farmer’s Legal Action Group, Inc.*

<http://www.flaginc.org/>

360 Robert Street North, Suite 500

Saint Paul, Minnesota 55101-1589

Phone: (651) 223-5400

Fax: (651) 223-5335

Email: [lawyers@flaginc.org](mailto:lawyers@flaginc.org)

The Farmers’ Legal Action Group, Inc. (FLAG) is a nonprofit that provides legal services and information to family farmers. In addition to publishing Farmers’ Legal Action Report, FLAG is active in organic food regulation litigation. For instance, FLAG represented Massachusetts Independent Certifiers, Inc. (MICI) in its battle with USDA Administrator of the Agricultural Marketing Service (In re Massachusetts Independent Certification, Inc., OFPA Docket No. 03-0002, which was described in the Administrative Law section of this guide). FLAG also follows agricultural legal cases in which it is not directly involved, and has a section of its website devoted to links to court documents, <http://www.flaginc.org/news/MICI/MICI.htm>. Documents listed include complaints, briefs and petitions regarding the MICI case, as well as selected motions and briefs for Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005).

5.2. Producer/Consumer

*Northeast Organic Farmers Association (NOFA)*

<http://www.nofa.org/>

c/o Bill Duesing

P.O. Box 135

Stevenson, CT 06491

Phone: (203) 888-5146  
Email: [bduesing@cs.com](mailto:bduesing@cs.com)

The Northeast Organic Farmers Association is a nonprofit organization of farmers and consumers who promote organic and sustainable agriculture. NOFA has chapters in several states, including Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. The Association publishes a quarterly newsletter called The Natural Farmer, which includes articles on organic certification and labeling requirements.

*Organic Consumers Association (OCA)*

<http://www.organicconsumers.org/>

6101 Cliff Estate Road  
Little Marais, MN 55614  
Phone: (218) 226-4164  
Fax: (218) 353-7652

The Organic Consumers Association is a nonprofit organization with over 600,000 members. OCA represents the opinions and interests of organic food consumers, and addresses issues of food safety, genetic engineering, and environmental sustainability.

*Farm Foundation*

<http://www.farmfoundation.org/>

1211 West 22nd Street  
Suite 216  
Oak Brook, IL 60523-2197  
Phone (630) 571-9393  
Fax (630) 571-9580

The Farm Foundation is a nonprofit organization whose mission is to improve the economic and social standing of members of the U.S. agriculture industry. Although the Farm Foundation does not lobby, one of its main objectives is to educate policymakers about issues that affect the agricultural industry.

### 5.3. Business

*Organic Trade Association (OTA)*

[www.ota.com](http://www.ota.com)

P.O. Box 547  
Greenfield, MA 01302  
Phone: (413)-774-7511  
Fax: (413)-774-6432  
Email: [info@ato.com](mailto:info@ato.com)

The Organic Trade Association (OTA) is the business association for the North American organic food industry. A membership-based organization, OTA strives to promote organic and sustainable agriculture/trade.

#### 5.4. Research

##### *Organic Farming Research Foundation (OFRF)*

<http://www.ofrf.org/>

PO Box 440

Santa Cruz, Ca 95061

Phone: (831) 426-6606

Email: [research@ofrf.org](mailto:research@ofrf.org)

The Organic Farming Research Foundation is a nonprofit that supports organic agriculture research, and educates the public and policymakers about organic farming practices and issues.

##### *Organic Materials Review Institute (OMRI)*

<http://www.omri.org/>

Box 11558

Eugene, OR 97440

Phone: (541) 343-7600

Fax: (541) 343-8971

Email: [info@omri.org](mailto:info@omri.org)

OMRI independently reviews products planned for use in organic production, handling and processing. Its services are largely intended for decision makers who handle organic agriculture compliance. OMRI also provides organic compliance information for the general agricultural community.

#### 5.5. Agricultural Law Educational Institutions

##### *University of Arkansas Graduate Program in Agricultural Law*

<http://law.uark.edu/llm/>

Waterman Hall 204

Fayetteville, AR 72701

Phone: (479) 575-3706

Fax: (479) 575-2224

The University of Arkansas School of Law is **the only law school that offers an LL.M. in Agriculture**. The Graduate Program in Agricultural Law maintains the National Agricultural Law Center (<http://www.nationalaglawcenter.org/>), which provides a wealth of research resources and is funded by federal appropriations through the National Agricultural Library.

##### *Drake University Law School Agricultural Law Center*

<http://www.law.drake.edu/centers/default.aspx?pageID=aboutAgCtr>

2621 Carpenter Avenue

Des Moines, IA 50311-4505

Phone: (515) 271-2824

Founded in 1983, the Drake Agricultural Law Center sponsors a variety of courses, publications, conferences, as well as a certification program in food and agricultural law.

*The Penn State Dickinson School of Law Agricultural Law Resource & Reference Center*

<http://www.dsl.psu.edu/centers/aglaw.cfm>

150 South College Street

Carlisle, PA 17013

Phone: (717) 241-3517

Fax: (717) 240-5131

Email: [aglaw@psu.edu](mailto:aglaw@psu.edu)

The Dickinson Agricultural Law Resource Center offers materials and information on agricultural legal and regulatory issues to professionals, including lawyers, accountants, and financial planners. The Center also conducts continuing education and training programs on agricultural law.

*The Ohio State University Agricultural and Rural Law Program*

<http://aede.osu.edu/programs/aglaw/>

252 Ag. Admin. Bldg.

2120 Fyffe Rd.

Columbus, OH 43210

Phone: (614) 247-7898

Email: [aglaw@osu.edu](mailto:aglaw@osu.edu)

The Ohio State Agricultural and Rural Law Program focuses on land use, environmental law, natural resource law, regulatory law, and more. The Program's goal is to research issues in agricultural and rural law and to educate agricultural producers and consumers.

## VIII. CASE LAW

### 1. OVERALL USEFULNESS RATING:

### 2. OVERVIEW

Although case law is often one of the most essential elements of thorough legal research, the majority of organic food federal regulation law remains administrative and statutory based. At present, there are only a handful of cases involving federal organic food law in *any* capacity, with only one decided case that *directly* addresses the current state of federal regulation: Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005). That said, it is likely that organic food regulation litigation will mount now that the regulations are in place. Accordingly, this guide provides several options for case law research, including methods for the researcher seeking case law exploring the legal interplay of nationally certified organic food with other regulatory or statutory issues and concerns.

Case law that directly bears on federal regulation of organic food necessarily interprets and will likely cite to the Organic Foods Production Act (7 U.S.C. §6501). Ensuing case law may also cite to the seminal case of Harvey v. Veneman. Accordingly, the use of citator services and annotated codes is highly recommended for locating future litigation.

### 3. RAPID RESULTS

3.1. Citator Services. Since this research topic is dominated by statutory and administrative law, the most efficient method of finding case law directly on point will be to use online citator services (Lexis's Shepard's or Westlaw's KeyCite) to identify cases that cite to the Organic Foods Production Act or Harvey v. Veneman.

3.2. Annotated Codes. Like citator services, the annotated codes on Westlaw or Lexis will prove effective means of retrieving pertinent cases. Citator services are slightly preferable to annotated codes, however, due to update frequency.

### 4. FINDING CASE LAW INTERPRETING OFPA

#### 4.1. Citator Services

##### 4.1.1. Generally

Citator services serve a dual purpose with respect to case law. First, when relying on a case, it is imperative that one use citators to ensure that a holding is still valid law. Second, using a citator service is often the most efficient means for finding cases on a topic with its roots in statutory and administrative law. Although print citators exist, this guide recommends the use of electronic citator services, in particular LexisNexis's Shepard's and Westlaw's KeyCite, which are updated frequently and present information in a readily searchable manner. Moreover, each offers features that monitor the status of the researcher's case or statute and provide automatic updates.

#### 4.1.2. KeyCite

KeyCite is the citation research service from West. Researchers can KeyCite statutes, regulations, and cases. The most efficient way to use KeyCite to find case law addressing organic food regulation is to KeyCite “7 U.S.C.A. § 6501” (Organic Foods Production Act). This provides, *inter alia*, citing references to Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005), and will provide references to any future litigation relating directly to federal regulation of organic food.

As will be discussed, the First Circuit has remanded Harvey v. Veneman to the District Court. In order to stay apprised of developments in this case and any new litigation concerning the Organic Foods Production Act of 1990, KeyCite offers KeyCite Alert, a clipping service that monitors the status of a case or statute and sends updates via fax, printer, or email. By tracking cases, statutes and administrative materials, KeyCite keeps the researcher current on important points of law.

#### 4.1.3. Shepard’s

Shepard’s, the citation research service from Lexis, can also be used to retrieve case law interpreting the Organic Foods Production Act. For example, it is useful to Shepardize OFPA’s Final Rule, 7 C.F.R. 205, to find case law regarding organic food regulation.

#### 4.2. Annotated Codes

Annotated versions of the United States Code can also be used to retrieve case law interpreting OFPA. U.S.C.A. annotations are generally more comprehensive and include *all* federal and state cases, but for this topic both U.S.C.A. and U.S.C.S. included references only to Harvey v. Veneman. Although annotated versions of the Code can be used to locate case law, citator services are updated somewhat more frequently.

#### 4.3. Agricultural Law Websites

##### 4.3.1. Farmer’s Legal Action Group, Inc.

The “*Organic Agriculture Litigation*” section of the Farmer’s Legal Action Group, Inc. (FLAG), located at <http://www.flaginc.org/news/MICI/MICI.htm>, provides court documents, litigation materials, links to decisions, and press releases involving recent organic agriculture litigation making it an excellent source for tracking organic food litigation. However, be certain to check when the website was last updated.

##### 4.3.2. The AgLaw Reporter Case Summaries

The “*Case Summaries*” section of the National Agricultural Law Center’s AgLaw Reporter (<http://www.nationalaglawcenter.org/reporter/casesummaries/index.phtml>) provides synopses of agricultural law litigation. This online digest is updated frequently and has archives for cases starting from 2002. Moreover, the digest has a topical index with hypertext links to relevant case summaries. For example, the “*National Organic Program*” index option produced

a March 21, 2005 summary of Harvey v. Veneman, entitled “National Organic Program Final Rule Challenged as Inconsistent with the Organic Foods Production Act of 1990” by Joshua T. Crain, National AgLaw Center Graduate Assistant. Although it is not recommended that the researcher rely on a digest summary without reading the relevant case in full, the AgLaw Reporter Case Summaries section is an excellent way to track and learn about recent litigation.

#### 4.4. Traditional Westlaw Search Strategies

##### 4.4.1. Generally

This guide highly recommends using citator services and annotated versions of the Code to locate future case law directly involving federal regulation of organic food. Nonetheless, the following sections provide strategies for the researcher who wishes to rely on more classic methods of case retrieval when more OFPA litigation ensues.

##### 4.4.2. Topic and Key Number Searching

Westlaw’s Topic and Key Numbers may be found in a variety of sources, including relevant headnotes from case law and Custom Digests. Once the researcher has the relevant topic and key numbers, searching Westlaw case databases is easier because a word search can be combined with a topic field search, for instance, *TO(178k1) & “organic farm!”* Pertinent topic and key numbers are featured in Table 2.

*Table 2: Relevant Topics & Key Numbers*

<b>Topics &amp; Subtopics</b>	<b>Key Numbers</b>
Food	178
Power to Make Regulations	178k1
Administrative Power in General	178k1.7
Milk Marketing and Price	178k1.9
State Power	178k1.9(2)
Administrative Power	178k1.9(3)
Quantity and Price	178k4
Milk Marketing	178k4.5
Subjects of Regulations	178k4.5(2)
Violations of Regulations	178k11
Misbranding or Want of Notice to Purchasers or Public	178k15
Agriculture	23
Public Aid	23k3
Particular Crops, Control	23k3.4
In General	23k3.4(1)

##### 4.4.3. Custom Digest

Using Custom Digest is an efficient way to locate topic and key numbers electronically and then to retrieve cases with corresponding headnotes. To access Custom Digest from any Westlaw page, choose “*Key Numbers & Digest*” from the toolbar’s “*More*” drop-box. This leads

to a display of outlined topic and key numbers, which the researcher can browse by clicking to broaden (+) or narrow (-) the outline terms.

For the purposes of this research topic, this guide recommends selecting from topic and key numbers enumerated in Table 2. Then, the researcher can search for cases with headnotes classified under the chosen topic and key numbers by clicking “*Search Selected*.” Selections are listed in the “*Your Digest Selection*” box and the researcher can then specify jurisdiction, date restrictions and additional search terms. This guide recommends a date restriction corresponding to after the complete implementation of and required compliance with the NOP Final Rule (October 21, 2002).

#### 4.4.4. Natural Language Searching

Natural Language searching is also useful for finding relevant case law. A Natural Language search integrates words and terms relevant to a topic, but does not require exact phrasing. Useful searches include:

Federal regulation of organic food

How is organic food regulated?

#### 4.4.5. KeySearch

KeySearch is a Westlaw tool that provides a hierarchy of menu topics to help the researcher identify pertinent terms and key numbers, and ultimately to create a useful query. Although the “*Agriculture*” topic is relevant to the federal regulation of organic food, KeySearch adds little value beyond providing the corresponding relevant topic and key numbers, which can be easily learned from Custom Digest (the Custom Digest feature also has the added benefit of including “*Food*” in its outline).

#### 4.5. Traditional Lexis Search Strategies

##### 4.5.1. Search Advisor

Search Advisor is Lexis’s equivalent of Westlaw’s KeySearch. Search Advisor has a topic-based hierarchy format and can be used to hone in on legal subjects, find related case law, and retrieve relevant Lexis headnotes. Once in Search Advisor, the following hierarchy proved most relevant for this topic:

All Topics > Governments > Agriculture & Food > Product Quality

To make certain that this is the most useful hierarchy, double check with relevant case law headnotes, such as those in Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005), and indeed the above hierarchy is the same as those provided for organic food regulation headnotes in Harvey. After selecting the federal jurisdiction, additional terms may be added to refine the search:

“organic food” or “organic farm!” or “organic agricultur!”

#### 4.5.2. Natural Language Searching

Similar to Westlaw, Lexis's Natural Language search option is useful for finding relevant case law. The Natural Language searches that are useful for Westlaw are also helpful for Lexis:

Federal regulation of organic food

How is organic food regulated?

### 5. FINDING RELATED CASE LAW

#### 5.1. Generally

Since case law *directly* bearing on federal regulation of organic food will almost certainly cite to the Organic Foods Production Act and its implementing regulations, this guide strongly recommends the use of citator services or annotated codes for case law research. However, should the researcher wish to retrieve case law involving the *interplay* between federally certified organic food and other statutory/regulatory issues, research methods, the following research strategies are helpful.

#### 5.2. Westlaw: Full-Text Searching

Although it is an expensive method, full-text searching in a large database is helpful in finding cases that involve the interplay of nationally certified organic food with other legal issues, because these other legal issues will often vary case-by-case. Accordingly, this guide recommends a Terms & Connectors search in the All Federal Cases database (database identifier: ALLFEDS):

"organic food" or "organic farm!" or "organic agricultur!" & DA(AFT 01/01/1990)

This search string is broad enough to pick up any case that merely mentions organic food, farming, or agriculture, but yet limits results to cases after the passage of the Organic Foods Production Act. It is important to note that **the relative infrequency of the terms “organic food” or “organic farming” or “organic agriculture” in case law renders field or segment searches unnecessary.**

In addition, a Natural Language search can be run using:

organic food farming agriculture

After running these queries, the researcher can use the “*Term*” button to locate places in the text of cases where the search string words appear. The researcher can also make use of WestClip, a clipping service that monitors updates not only of case law, but also for legislative sources, newspapers, journals, and more, and provides alerts for updates. For instance, after running the above searches in ALLFEDS, the researcher can set up a WestClip entry. The WestClip entry will run the searches periodically and notify the researcher when new results are found. This sort of “passive retrieval” saves time and energy.

### 5.3. Lexis: Full-Text Searching

Similar to the full-text search strategy for Westlaw, Terms and Connectors searches, as well as Natural Language searches in the Federal Court Cases, Combined database (using the search provided above for Westlaw) are manageable, yet inclusive methods for retrieving cases even remotely related to federally certified organic food.

These comprehensive searches can then be saved as ECLIPSE entries, and will then run automatically at periods specified by the researcher. The results can be stored and viewed on-screen or sent via email.

## 6. SUGGESTED CASE LAW

### 6.1. Interpreting OFPA

#### 6.1.1. Decided

Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005).

This case challenges the USDA's National Organic Program Final Rule, promulgated under the Organic Foods Production Act, and is the only case that directly addresses current federal regulation of organic food. Harvey raised eight specific claims of inconsistency between OFPA and NOP regulations. On appeal, the First Circuit affirmed in part, reversed, and remanded to the District Court.

#### Procedural History:

Harvey v. Veneman, 222 F.R.D. 213 (D.Me. 2004).

Harvey v. Veneman, 297 F.Supp.2d 334 (D.Me. 2004).

Harvey v. Veneman, 2003 WL 22327171 (D.Me. Oct. 10, 2003).

#### 6.1.2. Pending

Center for Food Safety v. Veneman

Filed: United States District Court for the District of Columbia, August 5, 2004

The Center for Food Safety (CFS) filed suit against the USDA requesting the release of documents detailing the qualifications of the organic food certifiers of the National Organic Program. CFS, a nonprofit organization, seeks this information under the Freedom of Information Act and alleges that the USDA may be permitting "sham" certifiers to partake in the National Organic Program as seen by the unforeseen increase in the number of agents since 2000 (from 49 to more than 120). A copy of the complaint may be viewed online at <http://www.centerforfoodsafety.org/pubs/OrganicAccreditationComplaint8.05.2004.pdf>.

### 6.2. Related

Although the following cases do not directly assess federal regulation of organic food, they highlight some of the issues that have evolved as a result of national certification laws, the

majority of which seem to center on policies with differential effects for organic producers versus non-organic producers.

Straus Family Creamery v. Lyons, 280 F.Supp.2d 1028 (N.D.Cal. 2003).

This case addresses the intersection of federal organic certification laws and state pricing regulations. The court held that application of a California milk pricing and stabilization program to nationally certified organic milk processors, resulting in minimum price less than an organic producer's costs of production, did not violate equal protection and substantive due process rights.

The Organic Cow, LLC v. Northeast Dairy Compact Com'n, 164 F.Supp.2d 412 (D.Vt. 2001).

This case represents a situation in which the court declined to distinguish between organic and non-organic producers. The court upheld the Northeast Dairy Compact Commission's decision not to differentiate between organic and non-organic milk handlers regarding a requirement that it pay a generally applicable assessment based on the difference between the general federal milk price and the price deemed by the Commission to be fair and equitable.

Pringle v. U.S. of America, 1998 U.S. Dist. LEXIS 19378 (E.D. Mich. Dec. 9, 1998).

The court denied the government's motion for summary judgment after three Michigan organic farmers challenged the rate of disaster payments that the United States Department of Agriculture (USDA) paid for the loss of their adzuki, turtle and pinto beans, claiming that the Department failed to pay them the higher amount which organic foods demand in the marketplace as compared with conventionally grown foods.

Burns v. Lavender Hill Herb Farm, Inc., 2002 WL 31513418 (E.D.Pa. Oct 30, 2002).

This case highlights the myriad claims possible in disputes over the veracity of the "organic" label. In this case, the plaintiff brought claims under, *inter alia*, the False Claims Act, the Racketeer Influenced and Corrupt Organization Act, Trade Libel, and Interference with Commercial Relations alleging that the defendants conspired to misbrand and sell "conventional" produce as organic produce.

## IX. CITATOR & NOTIFICATION SERVICES

### 1. OVERALL USEFULNESS RATING:

### 2. OVERVIEW

Citator services indicate when a legal resource is cited. They can be used not only as a means of checking whether an authority is still valid, but also as an effective research tool. Notification services track changes in the law and offer corresponding document delivery systems.

These services are of particular importance to this topic. The NOP Final Rule only recently went into effect on April 21, 2001, and was not fully implemented until October 21, 2002. As organic food producers, consumers, and certifiers test their interpretations of NOP and OFPA in the courtroom, burgeoning case law and a deluge of administrative agency decisions are likely. Citator and notification services offer an efficient means of staying current with ensuing litigation.

### 3. RAPID RESULTS

3.1. KeyCite & Shepard's. Though the plethora of secondary sources KeyCite provides is often overwhelming, because of the NOP's *recent* implementation, it is the superior citator service for this topic. Nonetheless, to check for validity and continued authority of a legal resource, Shepard's should always be consulted. Similarly, Westlaw's KeyCite Alert and WestClip, and Lexis's Eclipse offer efficient ways to track changes in organic food regulation law.

### 4. CITATOR SERVICES

#### 4.1. KeyCite

Westlaw's KeyCite coverage includes all published and unpublished cases on Westlaw, statutes from all fifty states, United States Code Annotated, Code of Federal Regulations, and decisions from the National Labor Relations Board and the Merit Systems Protection Board. KeyCite is updated as soon as the material is available on Westlaw, and provides two research options: "*History*" (procedural history) and "*Citing References*" (citations and hypertext links to resources citing the KeyCited material).

Together, these options provide direct appellate history, negative indirect history, and citing references to cases, some administrative agency decisions, law reviews, statutes, and the CFR. It also provides information on recent session laws and rules that amend statutes and the CFR. **The superiority of KeyCite for this topic lies in its extensive coverage of citing references.** Overwhelming for topics with lengthy legal histories, KeyCite's comprehensiveness is advantageous to the researcher of federal regulation of organic food, which has manageable numbers of citing references. However, as the number of cases and secondary sources citing OFPA and NOP regulations mounts, KeyCite's inclusiveness may become burdensome.

#### 4.2. Shepard's

Shepard's covers cases, constitutions, statutes, rules and regulations, court rules, law review articles, Restatements, and patents, and is updated as soon as the new material is available on Lexis. Shepard's may be customized through "*Shepard's for Validation*" (subsequent history and only citing references with analysis) and "*Shepard's for Research*" (prior and subsequent history and all citing references). The researcher of this topic should select this latter option. Citing references for Shepardized statutes and regulations are to other statutes and rules that amend the provision at issue, cases and *select* secondary resources. Since only some secondary sources are included, there is the risk of missing out on citations to potentially important resources, such as many law review articles. Moreover, citing references to statutes and regulations only include those provisions that directly change the operation of the Shepardized provision.

Lexis publishes several print volumes of Shepard's, two of which are important to note due to this topic's emphasis on statutory and regulatory research: (1) Shepard's Federal Statute Citations; and (2) Shepard's Code of Federal Regulations Citations. Nonetheless, it is important to point out the somewhat limited number of citations in each. The citing references for Shepard's Federal Statute Citations are to federal cases, the Statutes at Large, treatises, annotations from the United States Supreme Court Reports, Lawyers' Edition, and American Law Reports. Similarly, citing references for the Code of Federal Regulations Citations are to cases (federal and state), nationally recognized law reviews, and annotations from United States Supreme Court Reports, Lawyers' Edition, and American Law Reports. Neither resource will provide citing references as extensive as those provided by KeyCite. Although KeyCite is superior to Shepard's for research on this topic, **Shepard's is still the premier source for ensuring a provision or case still constitutes good law.**

#### 4.3. A Comparison

The following table is an illustrated comparison of the relative breadth of citing references provided by KeyCite and Shepard's for 7 U.S.C. § 6501 (OFPA):

*Table 3: Citing References to 7 U.S.C. § 6501*

	<b>KeyCite</b>	<b>Shepards</b>
Cases	1	1
Administrative Decisions	1	0
Registers	97	0
Secondary sources (U.S.)	42	0
Court Documents	7	0
Secondary Sources (Canada)	1	0
Secondary Sources (Singapore)	1	0
Statutes and Court Rules	36	0
Administrative Codes	15	0

As seen in Table 3, KeyCite provides citing references to virtually any resource in the Westlaw database. Although federal regulation of organic food is a burgeoning area of law, at present, it is sufficiently marginal to warrant use of KeyCite.

## 5. NOTIFICATION SERVICES

### 5.1. KeyCite Alert & WestClip

KeyCite Alert is a monitoring service that tracks the status of a researcher's provision and sends notices regarding changes. KeyCite Alert can be applied to all cases, *selected* administrative decisions, U.S.C.A., C.F.R. and selected statutes and regulations from the states.

Although KeyCite Alert is not available for In re Massachusetts Independent Certification, Inc., OFPA Docket No. 03-0002 (discussed on page 54), it can and should be used to track Harvey v. Veneman, 396 F.3d 28 (1st Cir. 2005), which has been remanded to the District Court. In order to create a KeyCite Alert entry, select "*KeyCite Alert*" from the "*More*" drop-box and click "*Create Entry*." After typing in the citation of the item to be monitored, frequency, means of notification, and an end date for tracking can be selected.

In addition to KeyCite Alert, Westlaw offers WestClip, which is another tracking/document delivery system. While KeyCite Alert tracks and updates specific documents, WestClip tracks searches that have been run in a particular database. For instance, to track case law relating to OFPA, a WestClip entry can be created after running a search for "National Organic Program" in the ALLFEDS database.

### 5.2. Eclipse

Lexis's Eclipse is analogous to WestClip. Eclipse tracks searches, not individual provisions. This is an incredibly useful service for this topic since an onslaught of case law and administrative agency adjudication is likely over the next few years. To save a search as an Eclipse entry, simply run a search and click on "*Save As Eclipse*." As with KeyCite Alert and WestClip, search frequency and delivery method can be individually tailored to the needs of the researcher. For this topic, suggested Eclipse entries include:

Database: *Federal Court Cases, Combined (GENFED; COURTS)*

"Organic Foods Production Act"

organic /s certificat! and seal

Database: *Federal Agency Decisions, Combined*

NUMBER(OFPA)

## X. CONCLUSION

As this guide suggests, there are an incredible number of resources available on federal regulation of organic food. Moreover, there is significant diversity to these resources. Unfortunately, there is no single resource that provides complete coverage of the law. However, as indicated in the Introduction to this research guide, a few come close.

Research of this topic should start with secondary sources such as government brochures, law review articles, and books. These materials provide the researcher with an overview of the National Organic Program before he or she starts examining primary sources of law such as the Organic Foods Production Act and the National Organic Program Final Rule. Search strategies for primary sources of law abound, from the NOP Official Website, to GPO Access and Westlaw. With the Final Rule fully implemented, litigation regarding the NOP's interpretation OFPA is likely to mount. Accordingly, the researcher of this topic will need to stay current by using notification systems and annotated versions of the Code.

Organic food regulation affects a wide array of people including farmers, handlers, merchants, importers, consumers, lawyers and policymakers. Although these individuals are affected in different ways, they all need to remain up to date as to the state of the law. As such, there are numerous organizations and websites devoted to the topic, the most useful of which is the National Agricultural Law Center and its research intensive website.

Since organic food regulation is still a fairly marginal area of law and because it is a multi-disciplinary field incorporating environmental and agricultural concerns with socio-economic and legal issues, the research methodologies discussed in this guide are highly specific to the topic. This fact can be seen in the many unique resources suggested, including: AGRICOLA; agricultural trade journals; Alternative Farming Systems Information Center's collection of government brochures; the Agzines website, MedBioWorld, AGRIS/CARIS, the Biological and Agricultural Index, AgLaw Reporter, the Web-Agri search engine, and the CERIS Federal Register Agriculture Archive.