



**PennState Law**

Center for Agricultural  
and Shale Law





# QUARTERLY DAIRY LEGAL WEBINAR



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# Quarterly Dairy Legal Webinar

**Dairy Industry Carbon Reduction Programs  
with Brook Duer**

Tuesday, February 22, 2022

12:00pm – 1:00pm (EST)





# Quarterly Dairy Legal Webinar Series

**#6 in the series – covering the 4<sup>th</sup> quarter of 2021**



## Dairy Webinars

[July 2021 Quarterly Dairy Legal Webinar: Geographical Indications](#)

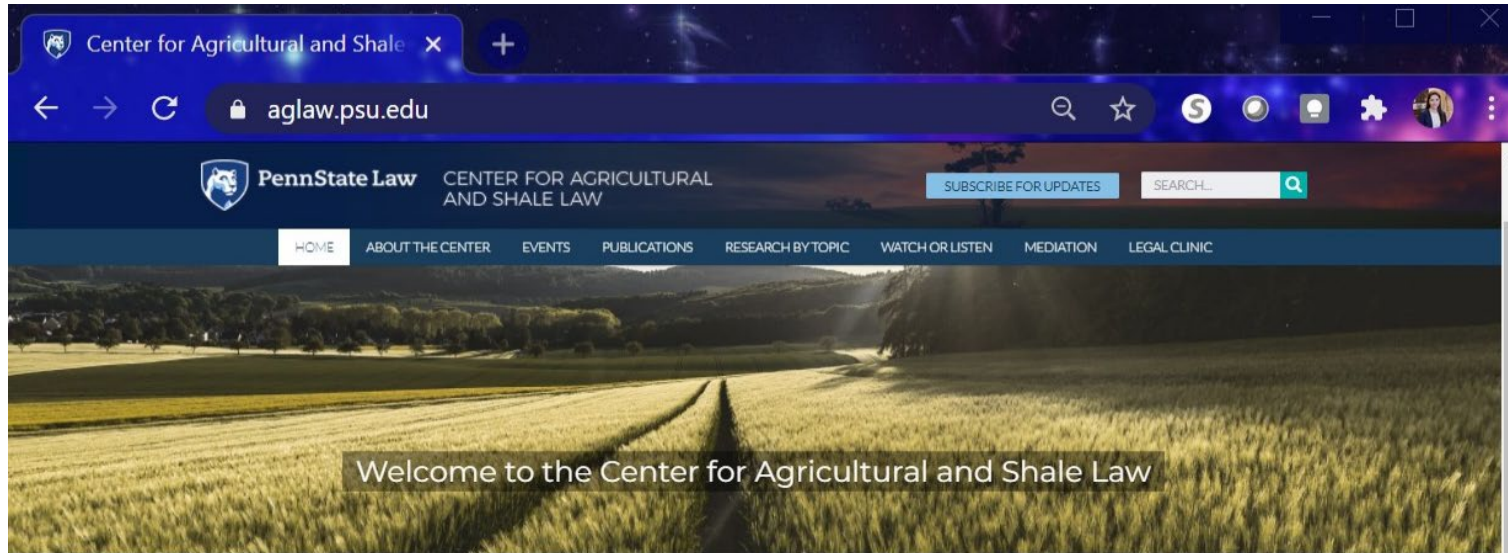
[April 2021 Quarterly Dairy Legal Webinar: Federal Milk Marketing Order Reform](#)

[January 2021 Quarterly Dairy Legal Webinar Part 2: International Trade with Becky Rasdall](#)

[January 2021 Quarterly Dairy Legal Webinar Part 1: Industry Round-Up](#)

[November 2020 Quarterly Dairy Legal Webinar Part 2: Federal Milk Marketing Order 51](#)

[November 2020 Quarterly Dairy Legal Webinar Part 1: Industry Round-Up](#)



## Agricultural Law Weekly Review

[SEE ALL AGRICULTURAL LAW WEEKLY REVIEWS »](#)

### Agricultural Law Weekly Review – Week Ending April 16, 2021

COVID-19: Farmer to Families Food Box Program Ends; Fresh Produce Box Purchases and Dairy Donation Program Planned 🌱 According to statements made by Secretary Vilsack posted to USDA's website on April 14, 2021, the Farmer to Families Food Box Program will be terminated at the close of April 2021 when the current funded vendor contracts end. On April 14, 2021, Reuters reported that USDA Communications Director Matt Herrick stated USDA is focused on different hunger initiatives, including expanding food stamp benefits and increasing food purchases through existing government food distribution programs. On April 9, 2021, USDA released a Pre-Solicitation Announcement [...]

April 21st, 2021

[Read More >](#)

### Agricultural Law Weekly Review – Week Ending April 9, 2021

Antitrust: Court Approves \$58 Settlement in Peanut Class Action Suit 🌱 On April 5, 2021, the U.S. District Court for the Eastern District of Virginia approved a \$58 million settlement agreement between the plaintiff peanut farmer Settlement Class and defendant peanut shellers Birdsong Corporation and Olam Peanut Shelling Company, Inc. in a civil antitrust class action suit alleging that the defendant companies over- and under-reported peanut inventories to the U.S. Department of Agriculture (USDA) to manipulate prices. In re Peanut Farmers Antitrust Litigation, No. 2:19-cv-00463. The approval follows the court's March 2021 back-to-back orders, absent accompanying explanatory opinions, approving the [...]

### Tweets by @AgShaleLaw

**PSU Ag & Shale Law**  
@AgShaleLaw

#ShaleLaw HotLink: "Unrestrained shale growth could trigger another price war" buff.ly/3xg9gF3 @APIenergy @BNNBloomberg #APISmartBrief #shale #oilandgas #shaleoil #OPEC

**PSU Ag & Shale Law**  
@AgShaleLaw

#AgLaw HotLink: "Tyson Fresh Meats to join US CattleTrace" buff.ly/3eoxq7H @MeatPoultry #tyson #meats #freshmeat

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# Dairy Quarterly Legal Webinar Series– Standard Agenda

- Recent Legal Developments in the Dairy Industry
- Focused Topic of Importance to Dairy Industry
- Questions



# Dairy Quarterly Legal Webinar

- **This webinar will be recorded.**
- Use the Q&A feature for questions.
- CLE credits:
  - Link will be posted in the chat
  - Please fill out form
  - Listen for code word
  - Questions?
    - Email: [jks251@psu.edu](mailto:jks251@psu.edu)



## Thanks to Our Partners

The Center for Agricultural and Shale Law is a partner of the National Agricultural Law Center (NALC) at the University of Arkansas System Division of Agriculture, which serves as the nation's leading source of agricultural and food law research and information. This material is provided as part of that partnership and is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture.







## **Today's Agenda:**

Round-up of the past quarter's legal and regulatory developments impacting the dairy industry

- **Presenter: Chloe Marie, Research Specialist**

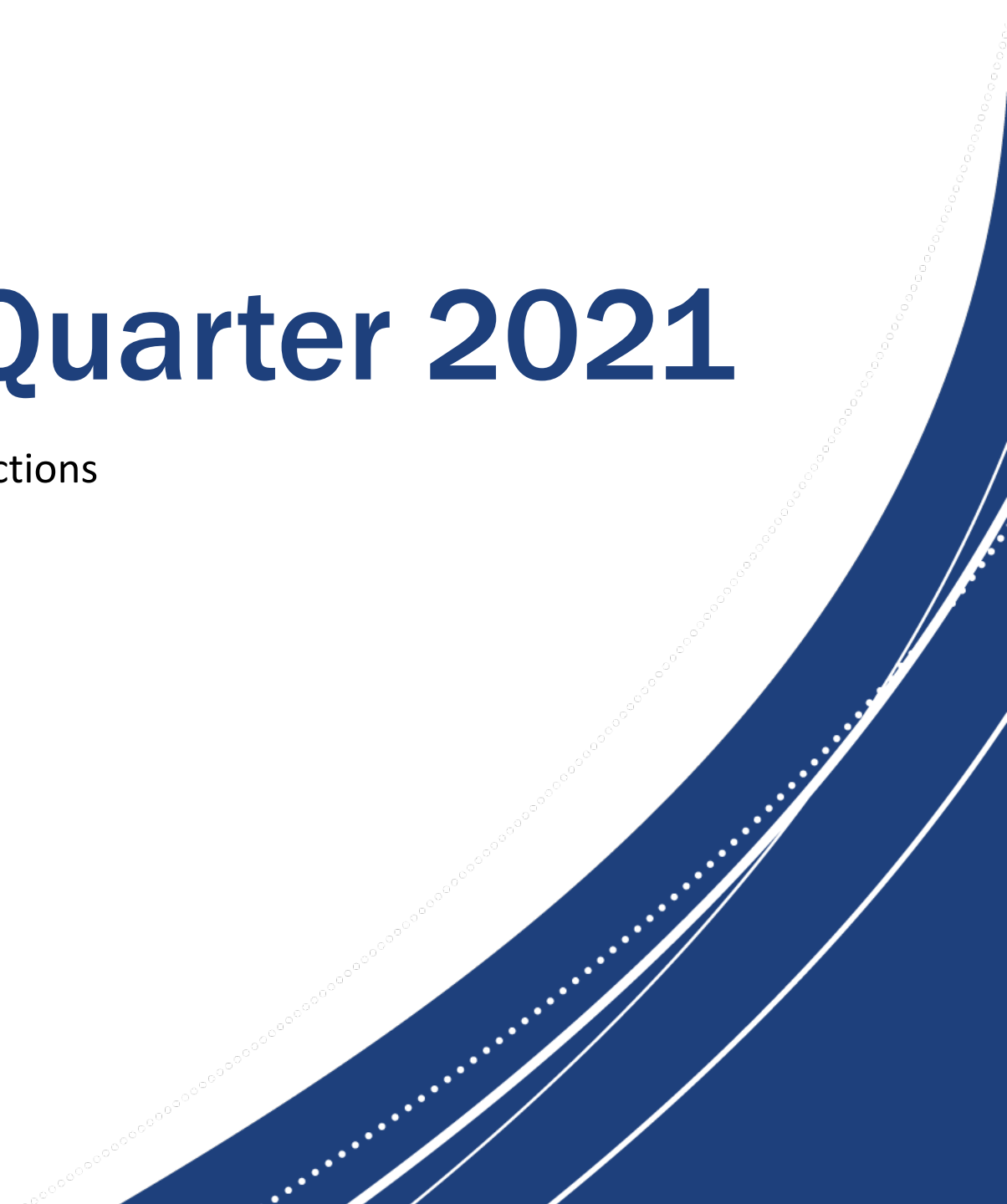
Focused topic of interest to dairy producers and professionals:

- **Topic: Dairy Industry Carbon Reduction Programs**
- **Presenter: Brook Duer, Staff Attorney**



# Round Up – 4th Quarter 2021

- U.S. Department of Agriculture (USDA) Actions
- U.S. Dairy Antitrust Issues
- U.S. Regional Dairy Issues
- International Issues





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# USDA Announced 2022 DMC Program Enrollment

*“As part of the Biden-Harris Administration’s ongoing efforts to support dairy farmers and rural communities, today the U.S. Department of Agriculture (USDA) opened signup for the Dairy Margin Coverage (DMC) program and expanded the program to allow dairy producers to better their operation by enrolling supplemental production.”*

- **DMC Feed Cost Calculation Adjustment**

- FSA updated the feed cost calculation with 100% premium alfalfa hay price instead of 50% premium hay price

- **New Supplemental DMC Payments**

- Dairy operations with less than five (5) million pounds of past production may enroll in Supplemental DMC
- Supplemental DMC payment calculation is based upon a formula using 2019 actual milk marketing data
- Supplemental DMC coverage is applicable to calendar years 2022 and 2023
- Supplemental DMC payments will be retroactive to 2021

- **Signup Period**

- Initially opened from December 13, 2021, until February 18, 2022
- Now extended until **March 25, 2022.**



# Antitrust Review Completed of Kraft Heinz's U.S. Natural Cheese Lines

*“The Department of Justice announced today that it will require B.S.A. S.A. (Lactalis) and The Kraft Heinz Company (Kraft Heinz) to divest Kraft Heinz’s Athenos and Polly-O businesses in order to proceed with Lactalis’s proposed acquisition of Kraft Heinz’s natural cheese businesses in the United States.”* News Release, [Justice Department Requires Divestitures in Lactalis’s Acquisition of Kraft Heinz’s Natural Cheese Business in the United States](#) (November 10, 2021)

- The U.S. Department of Justice (DOJ) filed a [civil antitrust lawsuit](#) and a related [proposed settlement](#) (86 FR 73319)
  - *“This combination would bring together the two largest suppliers of feta cheese in the United States and the two largest suppliers of ricotta cheese in the metropolitan and surrounding area of New York, New York, and in four metropolitan and surrounding areas in Florida. As a result, the proposed combination of Lactalis and Kraft Heinz would likely lead to higher prices, lower quality, and reduced choice for retail consumers of these cheeses, at a time when many Americans are struggling to meet rising food prices ...”* United States of America v. B.S.A. S.A., et al., USDC District of Columbia, No. 1:21-cv-2976.
- The settlement proposed to sell Athenos cheese business to Emmi Roth USA, Inc. and Polly-O cheese business to BelGioioso Cheese, Inc.; Kraft Heinz agreed and sold its assets to Lactalis for approximately \$3.3 billion.





# Organic Organizations Alleged Danone's Horizon Contract Terminations Violate B Corp "Declaration of Interdependence"

November 8, 2021 – Eleven (11) organic organizations [submitted](#) a petition to B Lab, a non-profit organization headquartered in Berwyn, PA, against Danone North America, alleging a violation of the B Corp Declaration of Interdependence.

- *"In August 2021, Danone N.A.'s wholly-owned subsidiary, Horizon Organic, ended its contracts with 89 Northeast organic dairy farms. These family farms had maintained their portion of their supply contract for Danone N.A., yet Danone N.A. ended these contracts simply because the farms no longer fit their 'manufacturing footprint.' This massive exit by Danone N.A. from the northeast region has severely hurt these farm families and the region's rural economy and is a direct violation of the B Corp Declaration of Interdependence."*
- B Lab is a non-profit organization, which award B Corp certifications to companies after reviewing whether their businesses practices are environmentally and socially sound; [B Corp Declaration of Interdependence](#).
- B Lab's [response](#) to the complaint: *"Upon reviewing the information available, including the information shared in the petition, and considering the stakeholder concerns raised and the impact on affected farmers and communities, we have determined that Danone North America's certification is upheld ... while the B Impact Assessment acknowledges as best practices, among other things, supporting small scale and local suppliers, maintaining long term relationships with suppliers (average tenure), and purchases from organic producers, these practices are not required components of the certification ..."* (in an email dated Dec. 16, 2021).





# Danone North America Extends Northeast Organic Contracts Until February 2023

December 13, 2021 – In a [letter](#) addressed to the Northeast Organic Dairy Producers Alliance (NODPA) to provide:

- “affected producers the option to extend their current contract an additional six months, for a total of 18-months, ending on **February 28, 2023;**”
- “a transition payment of an additional amount of per hundredweight on the milk we purchase from these producers (during the last six-months of our agreement);”
- “access (at no cost to the farmer) to farm financial consultants that specialize in providing support for the agriculture community;”
- And commit to “work with regional stakeholders, including state and federal governments, to explore co-investment solutions that will address some of the systemic challenges related to Northeast organic dairy infrastructure.”



# Hershey Partnered with New Zealand-based a2 Milk Company to Release New Chocolate Milk

*“The a2 Milk Company and The Hershey Company today announced the upcoming release of co-branded Hershey’s/The a2 Milk Company chocolate milk in the United States, making Hershey’s first partnership with a premium milk company.”* News Release, [“a2 Milk® & Hershey to Release Co-Branded Chocolate Milk in the US”](#) (Oct. 28, 2021)

- A2 Milk comes a variety of cows exclusively producing milk with A2 (beta-casein) protein due to a genetic mutation compared to regular milk that contain both A1 and A2 protein;
- According to published research, a2 milk can be [“easier on digestion”](#) for people who think they are lactose intolerant but instead possibly sensitive to a type of protein milk;
- New Zealand first introduced an a2 Milk brand, and [65% of A2 milk in Australia and New Zealand are produced by Jersey cows.](#)



# Thanks to Our Partners!



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  - The National Agricultural Law Center
  - National Agricultural Library
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