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# QUARTERLY DAIRY LEGAL WEBINAR



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# Quarterly Dairy Legal Webinar

**Animal Welfare in the U.S. Dairy Industry  
with Brook Duer**

Tuesday, April 22, 2022

12:00pm – 1:00pm (EST)





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# Quarterly Dairy Legal Webinar Series

**#7 in the series – covering the 1<sup>st</sup> quarter of 2022**



## Dairy Webinars

July 2021 Quarterly Dairy Legal Webinar: Geographical Indications

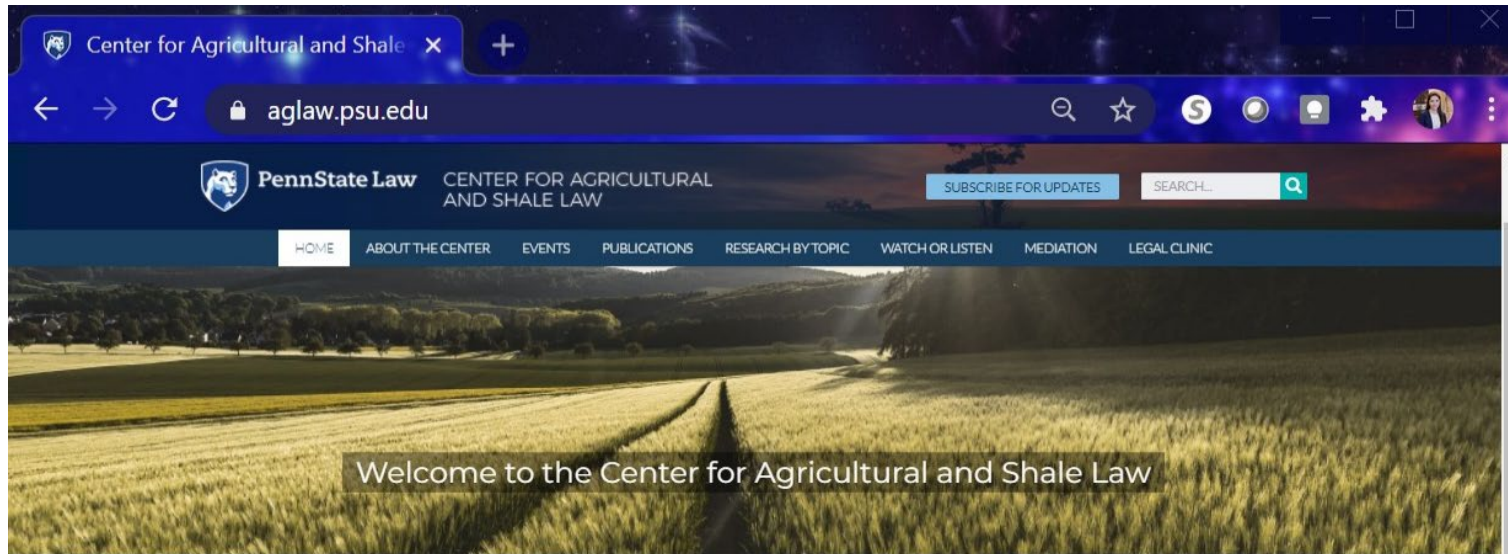
April 2021 Quarterly Dairy Legal Webinar: Federal Milk Marketing Order Reform

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

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

1h

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

Embed View on Twitter







# 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)



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# 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: Animal Welfare in the U.S. Dairy Industry**
- **Presenter: Brook Duer, Staff Attorney**



# Round Up – 1st Quarter 2022

- Pennsylvania Milk Marketing Board (PMMB) Actions
- U.S. Regional Dairy Issues
- International Dairy Issues





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# PMMB Continues \$1 Over-Order Premium Despite Pennsylvania Farm Bureau Opposition

On March 2, 2022, the Pennsylvania Milk Marketing Board (PMMB) held a [public hearing](#) for all milk marketing areas in Harrisburg, PA, seeking to receive evidence on the level and duration of the Class I over-order premium.

*“Whether or not the Board decides to continue the existing premium for another six months, we would strongly urge the Board to take a fresh look at all options available to develop a fair and equitable premium distribution system that treats all Pennsylvania dairy farmers equitably while not overcharging Pennsylvania consumers for premiums that never get back to the Pennsylvania farmers” – [Testimony of Deputy Secretary Greg Hostetter, on behalf of the Commonwealth of Pennsylvania Department of Agriculture](#).*

*“... We believe that unless and until a more equitable system can be implemented that the time has come to eliminate the Class I Over-Order Premium, and therefore recommend setting the upcoming over-order premium at \$0.00 indefinitely for all milk marketing areas” – [Testimony of Pennsylvania Farm Bureau \(PFB\) Executive Board Member, John Painter II](#) (later [excluded](#) from consideration by the Board on March 1).*

On March 22, 2022, the Pennsylvania Milk Marketing Board (PMMB) issued [Official General Order No. A-1013](#), continuing the current **\$1.00 per hundredweight over-order premium (OOP)** for all Class I milk produced, processed, and sold in the Pennsylvania.

- Effective April 1, 2022, to September 30, 2022.
- Continuation of status-quo since April 2019.



# Stonyfield Co-Founder Gary Hirshberg Established Northeast Organic Family Farm Partnership

## Pledge Your Support for Northeast Organic Family Farms

The loss of local family farms is not a new story for the northeast. However, in the fall of 2021, 89 organic farms across Maine, New Hampshire, Vermont, and New York received the devastating and unexpected news that Horizon Organic, the processor committed to purchasing their milk, would terminate contracts within 12 months (now extended to 18 months). Soon after that, 46 organic family farms in eastern New York received similar notices from their processor Maple Hill Creamery.

The 135 termination notices placed a large percentage of the region's organic dairy farms in financial jeopardy and created an urgent wake-up call for our region. Unless we take swift action, our hard-working family farms – and the promise of a climate-positive, secure food system supported by their organic methods – will face dire consequences. While saving these 135 at-risk farms is the most urgent and immediate crisis, we recognize an equally vital need to address the systemic conditions that have put these farms at risk. Simply put, we all must act to prevent farms from ever being placed in this position again.

### First Step to Address the Crisis

The first step in creating market stability and ensuring the future of the Northeast's organic dairy farms is to increase the demand for the organic milk produced in our region. When consumers vote with their dollars and purchase from the brands committed to sourcing organic milk from our region, it sends a strong message that we value our local organic farms and want them to stay in business.

- Establishes a partnership between Northeast dairy farmers and processors, consumers, grocers, restaurants and institutional food services to create new demand for milk produced in the Northeast region;
- Encourages entities and individuals to pledge to purchase at least one quarter of their weekly dairy products from [brand partners](https://www.saveorganicfamilyfarms.org/) using Northeast organic milk.

<https://www.saveorganicfamilyfarms.org/>



# Organic Valley Offered Letters of Intent to Northeast Organic Dairy Producers

*“The Vermont Agency of Agriculture, Food and Markets (VAAFM) is delighted that Organic Valley has stepped up to help nearly 80 family farms in Vermont and the Northeast, who, until today, were to lose their market for their milk this summer ... Organic Valley has announced 80 farms could sign up with the new arrangement; 10 have already signed up to join the dairy cooperative.”*

[VAAFM News Release](#) (Mar. 8, 2022)

Also read [Saving Northeast Family Farms, Organic Valley Press Release](#)







# Dispute Panel Found Canada's Dairy TRQ Allocation in Violation of USMCA Agreement

*"... the United States has prevailed in the first dispute settlement panel proceeding ever brought under the United States-Mexico-Canada Agreement (USMCA). A USMCA panel agreed with the United States that Canada is breaching its USMCA commitments by reserving most of the in-quota quantity in its dairy tariff-rate quotas (TRQs) for the exclusive use of Canadian processors"*

[Office of the U.S. Trade Representative, Press Release](#) (Jan. 4, 2022)

*"... the Panel finds that Canada's practice of reserving TRQ pools exclusively for the use of processors is inconsistent with Canada's commitment in Article 3.A.2.11(b) of the Treat not to "limit access to an allocation to processors"*

[Final Panel Report](#) (Dec. 20, 2021)

Article 3.A.2.11(b): "A party administering an allocated TRQ shall ensure that ... (b) unless otherwise agreed by the parties, it does not allocate any portion of the quota to a producer group, condition access to an allocation on the purchase of domestic production, or limit access to an allocation to processors."



# The Canadian Government Proposed New Allocation and Administration Changes for Dairy TRQs

- [Public Consultations: CUSMA Dairy Tariff Rate Quotas \(TRQs\) Panel Report Implementation – Proposed Allocation and Administration Policy Changes](#) (last modified Mar. 1, 2022)

*“All that American dairy farmers want is fair and good-faith implementation of USMCA’s dairy provisions. That doesn’t seem like a high bar, yet it appears to be insurmountable for Canada based on yesterday’s proposed dairy TRQ scheme changes ... We urge the administration to demand that Canada go back to the drawing board until it can genuinely deliver on providing the U.S. dairy industry the full benefit of USMCA”*

[NMPF and USDEC Slam Canadian Proposal on USMCA Dairy Market Access](#), Press Release (Mar. 3, 2022)

*“The plan makes true access to the Canadian market unattainable through a series of gimmicks. It comes as no surprise that Canada is unwilling to reform their trade-distorting practices on dairy”*

[IDF Says Canadian Plan for USMCA Compliance a ‘Nonstarter’](#), Press Release (Mar. 4, 2022)

*“Excluding retailers from the new proposal will continue to keep out an important and growing segment of U.S. dairy. We urge the U.S. government to continue to work with Canada in seeking meaningful reforms that bring our important trading partner into compliance with its USMCA obligations”*

[Canada’s TRQ proposal continues unfair treatment of US exports](#), Press Release (Mar. 4, 2022)



# New Jersey Law Appropriated \$125,000 to State Department of Agriculture to Reimburse Annual Premiums to Dairy Farmers

- On January 18, 2022, New Jersey Governor Phil Murphy signed into law S.3465, an [Act concerning reimbursement of certain premiums to dairy farmers, supplementing Title 4 of the Revised Statutes, and making an appropriation.](#)

“The Department of Agriculture shall disburse annually to each enrolled dairy farmer in the State the amount of the annual premium paid by the enrolled dairy farmer for coverage under the federal Dairy Margin Coverage Program up to the amount of the premium for coverage for the 5,000,000 pounds of annual milk production per farm, the first tier of coverage under the program.”

“There is appropriated from the General Fund to the Department of Agriculture a sum in the amount of \$125,000 to provide for the reimbursements authorized pursuant to section 1 of this act.”



# The International Dairy Foods Association Released Working Paper, “Modernizing US Milk Pricing: An Exploration”

According to the International Dairy Foods Association, this study provides “a landscape overview of global milk pricing and competitiveness intended to serve as an important resource for further discussion among IDFA members regarding issues related to the Federal Milk Marketing Order (FMMO) system” – [News Release](#) (Jan. 25, 2022)

Professor Marin Bozic/Bozic LLC & Blimling and Associates, [Modernizing US Milk Pricing: An Exploration](#), Working Paper (January 2022)



**IDFA**  
**International  
Dairy Foods Association**



# The U.S. Department of Agriculture Published Study on Cost of Processing in Cheese, Whey, Butter and Nonfat Dry Milk Plants

- On February 14, 2022, the U.S. Department of Agriculture (USDA) Agricultural Marketing Service (AMS) [announced](#) the publication of a Cost of Processing Study for Cheese, Whey, Butter and Nonfat Dry Milk Plants.
  - Mark Stephenson, Ph.D., [Cost of Processing in Cheese, Whey, Butter and Nonfat Dry Milk Plants](#), USDA AMS Publication (Dec. 2021)
- The study found that the cost of processing for nonfat dry milk ranged from \$0.21-0.43 per pound, butter from \$0.11-0.23 per pound, cheddar cheese from \$0.14-0.38 per pound, and dry whey \$0.19-0.35 per pound.



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