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Legal Considerations in Sustainable Agriculture

DISCLAIMER: This outline is a general guide. Be sure to contact an attorney if you have questions or specific issues that need to be addressed.

People start a sustainable farm for many reasons—to feed their community, for environmental impact and long-term viability of land, to pursue social and fiscal responsibility, and more. But the legal landscape surrounding these can be complex and challenging. Farmers, growers, and ranchers seeking to adopt sustainable practices must navigate a web of laws and regulations at the local, state, and federal level. This guide outlines just a few common legal issues and considerations to be aware of and address when pursuing sustainable practices.

- 1. Land Tenure and Lease Agreements.** Whether you're the landlord or the tenant, having a written lease agreement in place is very important for implementing long-term sustainable practices to ensure long-term leasing that provide stability for implementing such sustainable farming practices. It's important that leases address and clarify improvements to the land, such as buildings, soil health, and water use, and how these will be treated at the end of the term. We strongly encourage you to work with an attorney to ensure lease terms protect land owners and land leasers, including if you're interested in non-traditional or innovative sustainable practices. ([Read our Farm Lease Dos and Don'ts!](#))
- 2. Advertising and "Green" Claims.** Advertising and marketing language cannot be false or misleading under federal and state laws. Due to the unfortunate influx of companies seeking to take advantage of consumers' desires to buy things that are sustainably made, federal and some state regulations seek to crack down on misleading environmental labeling and advertising claims, sometimes called "greenwashing" claims. For example, such claims may include a false seal of approval showing something is sustainably made that looks like it comes an authoritative governing body, when it doesn't. It's important to know about these types of potential issues in creating products and marketing, as mislabeling can lead to significant fines. The Federal Trade Commission has [developed various "Green Guides"](#) which can be helpful in understanding and avoiding environmental claims that mislead consumers.

Additionally, If you plan to sell your products as "organic," you must comply with the [USDA Organic Standards](#). This involves both regulatory requirements for growing practices and stringent record-keeping for certification. Failing to comply with these standards could result in hefty fines or loss of certification. If you are interested in organic farming, you'll need to go through the National Organic Program (NOP) certification process. You must maintain detailed records of farming practices, inputs, and outputs.

- 3. Zoning/Land Use Considerations.** Zoning relates to what activities and practices the land can be used for. They can restrict the type of farming operations, and whether or not certain farming practices like agroforestry, organic farming, or alternative energy installations (such as wind or solar) are allowed. It's also

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especially important if you plan to do any agritourism activities. You have to understand the local zoning ordinances of the township, county, or borough where you're intending to start your sustainable operation to ensure your crop type, water usage and waste disposal, technology etc., is allowed. Pennsylvania does have some "right to farm" protections ([read our blog post about this!](#)) and those relating to on-farm sales ([read our blog post about this](#)) but you may still need to follow these within certain parameters so be sure to work with an attorney to understand restrictions and rights related to your specific operations and land.

4. **Funding/Tax Programs and Compliance.** Farmers who implement sustainable practices must understand various regulations related to maintenance of soil health, such as those related to erosion, tillage reduction measures, and other potential zoning issues. There are financial assistance programs and tax incentives (read our blog post [about Clean and Green here!](#)) for sustainable land management practices that can help farmers who are in compliance with soil and land conservation laws, and it's important to understand any legal and contractual compliance requirements if you've received these types of funding/tax programs, so while there may be tax breaks and grant opportunities to fund your operation, they may also come with restrictions on the use of your land you want to fully understand. Also check out Pasa's climate smart grant program: <https://climatesmart.org/apply/>
5. **Issues Related to Seeds.** Seed-saving and sharing can be a potential sustainable practice, however, Pennsylvania law regulates the distribution and sale of seeds, including specific licensure requirements. Additionally, some companies hold patents on seeds, and their use or sale may be restricted, creating legal dilemmas for small-scale farmers who wish to distribute or save seeds. You can learn more about [Pennsylvania seed laws and regulations at the PA Dept of Agriculture](#) website or speak with an attorney about further considerations.
6. **Environmental Impact and Liability.** While sustainable farming intends to improve the environment, there may be potential liability concerns related to pesticide use, water runoff, endangered species issue, the potential for polluting neighboring properties, and even those related to liability for additional uses of your land, like [agritourism](#). It's important to understand the various environmental standards and regulations (both at the federal and local level) as well as liability rules where you operate. It may be necessary to obtain environmental permits and insurance particularly if you are engaging in large-scale operations or particular types of growing/raising.

Additional Resources. Check out these additional resources and groups focused on sustainability and legal help!

- **Our Website:** We have a variety of resources and blog posts for farmers and are happy to help with legal issues: <https://www.trellispgh.com/>
- **Pasa:** Pasa is a nonprofit that supports sustainable farms and provides wonderful community opportunities and resources. <https://pasafarming.org/>
- **Penn State AgLaw Center:** provides research and resources for various farmers, attorneys, landowners and more. <https://aglaw.psu.edu/>
- **Farmers' Legal Action Group (FLAG):** <http://www.flaginc.org/> Provides legal resources and assistance for farmers.
- **USDA National Organic Program:** Offers guidelines and certification processes for organic farming. <https://www.ams.usda.gov/about-ams/programs-offices/national-organic-program>