



Community Supported Agriculture: Legal Concerns

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As with all businesses, Community Supported Agriculture (CSA) growers may experience legal concerns. This fact sheet will walk growers through certain steps that may be taken to minimize the liability of your CSA operation and manage possible risks.

Liability Insurance

Liability insurance is an important part of risk management. As a CSA grower, you may be required to increase your product liability insurance (Penn State Extension, 2013). In order to fully protect a CSA business, all activities and risks must be fully disclosed and included in the insurance policy (Pennsylvania Association for Sustainable Agriculture, 2012).

CSAs provide a unique opportunity for community members and local growers to work on a closer basis than most agricultural practices. While this arrangement allows members to gain experience, obtain fresh produce, bond with others, and provides many other benefits, it also poses some liability risks.



Members can sometimes be involved in CSA activities such as berry picking.

These can include:

- Member involvement on the farm
- Product/packaging
- Distribution sites
- Facilities

Member Involvement

According to Pennsylvania State Extension (2013), involving members in work on the CSA “creates a higher risk for the grower due to the increased liability should a member be injured” (p. 3). Whether or not an insurance provider views members working on the farm as employees will affect the cost of workers’ compensation insurance (Pennsylvania State Extension, 2013; Maryland Department of Agriculture, 2016). A possible tactic to counter this risk is to count members working on the farm as volunteers, depending on the situation. However, no choices should be made without consulting with an insurance provider (Armstrong, 2014).



Some growers allow members to help with work on the CSA operation. Photo Credit: Sandhill Farm

Product Liability & Handling

There are many regulations mandating the safe growing, handling, transportation, etc., of produce. It is important to know these regulations and operate accordingly.

The Pennsylvania Association for Sustainable Agriculture (2012), warns that insurance for food borne illness is not included in business and general farming policies and should be covered with a product liability insurance policy. Depending on the packaging method, the farm may or may not be more liable for food safety.

Distribution Sites

Because drop-off sites are off the farm, typical farm liability policies won't cover the off-farm site (Armstrong, 2014). For most drop-off sites, a commercial general liability (CGL) policy is needed.

When picking a drop-off location, CSA management should speak with zoning authorities and community members before choosing a location. To avoid complaints from community members, you should choose a drop-off site located in commercial, not residential, zoning areas (Armstrong, 2014).

Facilities

It is also important for CSA management to insure CSA facilities and equipment, which is typically covered under property insurance (Penn State Extension, 2013; University of California Cooperative Extension, 1995). This will help protect the CSA from problems that occur on the premises or with machinery.

The best way to guarantee the CSA operation has proper insurance is to meet with lawyers and proper insurance agents (Community Involved in Sustaining Agriculture, 2008). An expert's opinion and consultation with you will help make an individual plan that covers each of the activities included in your CSA operation.

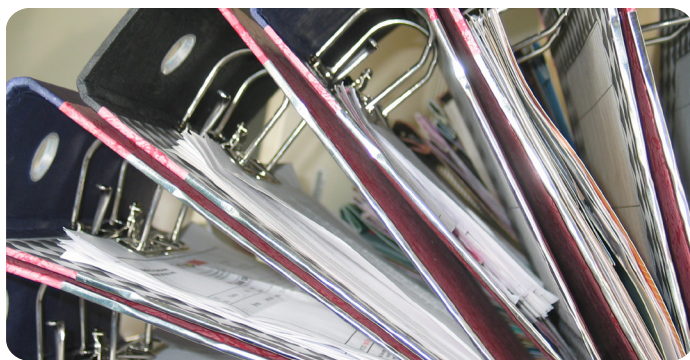
Whole-Farm Revenue Protection is a single insurance policy that covers all crops and livestock on a farm (Kongs, 2016). The policy, provided by the U.S. Department of Agriculture (USDA), makes it easier for small-scale farms to purchase crop insurance. To learn more or apply for the USDA Risk Management Agency Whole-Farm Revenue Pilot Protection Program insurance coverage, please go visit their website at: <http://www.rma.usda.gov/Policies/WFRP.html>

Membership Agreement Form

A membership agreement form is a written contract that shareholders must agree to before buying a share. This form will let them know what to expect as a shareholder and will protect your CSA operation from legal issues. Although a complete signature may not be needed, shareholders should at least initial or check a box stating they understand and agree to the conditions (Armstrong, 2014). This form should include the following information (Armstrong, 2014; Pennsylvania Association for Sustainable Agriculture, 2012; Bruch & Ernst, 2010):

- Shareholder contact information - name, address, phone number, & email
- Contact information for farm
- Distribution information - dates, times, locations
- Notification if shareholders need to bring their own bags or boxes
- Responsibility of collecting shares, and the effects of failing to do so
- Produce information - growing practices, types of produce, amount of produce expected
- Payment information - price, deadlines, method(s) of payment
- Length of membership (Ex: one year or season)
- Refund policies

The agreement form must also state the shared risk that the shareholders are signing up for (Armstrong, 2014). Because distributing produce is a risk for you and shareholders, shareholders must know they may not receive what they expect. Crops may suffer due to environmental conditions, which could lead to less produce in their shares. Shareholders should be clearly aware of potential issues entering into the agreement (Pennsylvania Association for Sustainable Agriculture, 2012).



Member Agreement Forms can help protect a CSA against legal action

Item availability is also a key point to acknowledge within the contract (Pennsylvania Association for Sustainable Agriculture, 2012). Because some shareholders may not have prior farming knowledge, they may not be aware of produce availability. You should share a list of what produce shareholders can expect throughout the season. This aims to ensure that shareholders are content with what they receive.

Food Safety Modernization Act

CSAs must adhere to all state and federal regulations regarding food production (Ploetz, 2014). The Food Safety Modernization Act is an action to help prevent foodborne illness.

The Produce Safety Rule covers all farms and produce, except for:

- Produce that is “rarely consumed raw” (Allen, 2016).
- If a farm generates less than \$25,000 total produce sales annually.
- Food intended for personal or on-farm consumption is also exempt from the act. Certain farms may be eligible for a qualified exemption if they meet certain requirements (U. S. Food and Drug Administration, 2015).

Much uncertainty exists concerning the Produce Safety Rule and how the Food and Drug Administration will enforce requirements. When it comes to CSAs, standards remain unclear (K. Allen, personal communication, September 16, 2016).



Your local Extension office can help provide up-to-date information regarding the Food Safety Modernization Act. Photo credit: USU Extension



Many factors should be discussed with an insurance agent to ensure the CSA is protected from legal action

Act Coverage

Financing a CSA can be challenging, but there are many Regulations included in the Food Safety Modernization Act include (Allen, 2016):

- Agricultural water quality
- Biological soil amendments
- Domesticated and wild animals
- Worker training and health/hygiene
- Equipment, tools, and buildings
- Sprout-specific regulations

Packaging is also covered under the act. Labeling, mixing, and bagging all provide potential complications. Knowing these liability issues and legal concerns can help protect you and your farm from legal actions. However, it is recommended to consult a lawyer and an insurance provider when planning your CSA. Understanding these legal measures and providing a strong legal framework for your CSA can help ensure a successful operation.

Summary

There are various liability issues regarding CSA operations. However, you can minimize risk through the use of insurance policies, member agreement forms, and knowledge of food safety laws. You should consult an insurance provider and lawyer regarding your CSA operation to ensure all laws and regulations are met. You should also adhere to the Food Safety Modernization Act, although many aspects relating to CSAs remain unclear. An understanding of legal issues and proper knowledge can help protect you and give you stronger footing to maintain your CSA operation.

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