

Legal Risk Management Solutions for  
**Community Supported  
Agriculture in Maryland**



**“The ultimate goal of farming is not the growing of crops,  
but the cultivation and perfection of human beings.”**

- Masanobu Fukuoka, author of One Straw Revolution.

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Fukuoka’s quote above encapsulates the idea that food production is not simply an economic act divorced from human beings and human relationships. Many people interested in strengthening the connection between land, food, producer, and consumer have embraced community-supported agriculture (CSA), an alternative farming system increasingly popular in the United States. The CSA model was introduced in the United States by two Northeastern farms in 1986. Since then, CSA popularity has exploded, with over 12,500 CSA farms nationally, according to the 2012 Census of Agriculture.

The basic premise of the CSA model is that community members pledge support to a farm and the farmer relies on this support instead of traditional financial venues, such as market prices and lending institutions. The support can take the form of volunteer labor or, more commonly, by purchasing a share of the future produce at the beginning of the season. Members cover operational costs and receive periodic shares of the farm’s products, often vegetables and fruit. According to the 2012 Census of Agriculture, there are 119 farms in Maryland using the CSA model to sell their products.



The CSA model inverts the traditional agricultural economic model. Rather than relying on sales at the end of the season to cover interest on loans, cost of labor, and planting costs, CSA farmers have the capital they need at the beginning of the season from selling CSA memberships. CSA farmers receive a steady stream of income, protecting them from the economic consequences of low yields. CSA members, in turn, receive part of the farm's bounty, usually weekly, and enjoy a connection to the land and the food they are consuming.

Due to the nature of the CSA model, members assume a certain amount of risk upon joining a CSA farm since the model spreads the risk between farmers and members. In the conventional or production agricultural system, consumers are protected from risk factors such as inclement weather, pest damage, weed pressure, and other causes of low yields. By purchasing a share and investing in the farm's future bounty at the beginning of the season, the members are just as vulnerable as the farmers. If the crops fail, members may not see a return on their investment.

As consumer interest in local food grows, more Maryland consumers are turning to the CSA farm model for their produce and other food needs. Along with this growth have come complaints from consumers. Maryland Department of Agriculture (MDA) received phone calls from concerned citizens unhappy with the products they received from their CSA farms. Some were confused about decreased quantity or produce or had concerns about their farmer's practices. These issues led MDA to conduct an online survey of self-identified CSA farmers and members in summer 2014. The goal of the survey was to determine if there is a need for regulation of CSA farms.

Survey results showed an information gap between farmers and members. Confusing membership agreements and contracts or a lack of any written



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explanation were the main problems in communicating risk. MDA cooperated with researchers at the University of Maryland's Department of Agricultural and Resource Economics (AREC) and the Agriculture Law Education Initiative (ALEI) to develop better contracts and other resources to encourage the continued successful growth of CSAs in the state.

## **Methodology**

In summer 2014, two surveys were written, one for CSA farm owners and one for CSA farm members. The questions covered a range of topics such as marketing strategies, types of produce sold and bought, acreage, and risk communication strategies. The surveys were written and distributed using Qualtrics, Inc., an online survey builder and distributor.

Links to the surveys were distributed via individual emails. The email sent to the farmers included a brief description and link to the member survey. MDA asked farmers to forward the link to their past

and current members in order to respect privacy considerations. The farmers' email addresses were found primarily through the Maryland's Best website (<http://www.marylandsbest.net>), which allows farmers to self-identify as CSA operators. Each self-identified CSA farm was verified to ensure the farm had a CSA program. Emails were also collected through MDA employees who identified CSA farm owners. When the survey was closed after a few weeks, a total of 32 farmers and 68 CSA farm members had responded.

While analyzing survey results, special attention was given to responses regarding risk communication and member experiences with CSA farms. After noticing inconsistencies in farmer and member answers about risk communication, membership agreements and contracts publicly available online were reviewed to assess how farmers described risk.

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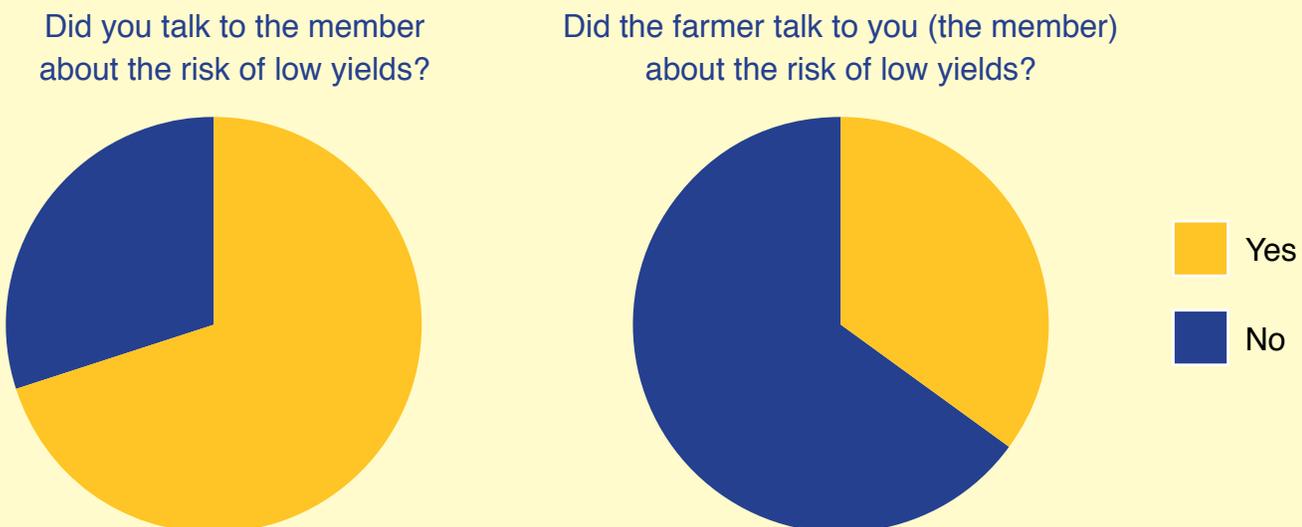
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## Results

The surveys contained a variety of questions designed to help MDA understand Maryland's CSA farms. In the questions pertaining to risk management, a few notable discoveries were made:

- Of the farmers who responded, 68% said they already use some type of membership agreement or contract.
- Some 70% of farmers answered that they specifically mentioned the risk of lowered yields, either in the agreement or verbally.
- Despite the farmers' efforts, only 33% of consumers responded they specifically learned about risk.
- That is, even though 70% of farmers reported efforts to communicate risk, 67% of consumers either did not hear about risk, did not remember, or did not fully understand what was communicated.

Given this gap, AREC and ALEI decided to look into the CSA contracts farmers are using. After



Results from Maryland Department of Agriculture Summer 2014 Survey



analyzing 22 CSA contracts from Maryland farms available online, AREC and ALEI found that the risk explanation portions of contracts currently in use were vague, confusing, and in some cases absent.

### **Materials Developed**

To help Maryland CSA farmers develop clearer risk communication tools, a model contract was developed. It is based on the contracts CSA farmers already use, and includes space for farmers to personalize the document with their own details and information. In the model contract, the risk communication section is prominent and uses clear language to explain the risk of lowered yields. Accompanying the model contract is a contracting guide that walks farmers through each step of creating and using a contract, including tips related to protecting the farm. The guide includes a list of videos available covering a range of relevant topics, including information on contracts, labor, and crop insurance practices related to CSA farming.

Additionally, ALEI conducted in-person workshops and webinars to provide farmers with detailed information on how to use membership agreements, the model contract, and accompanying guide.

The resources and materials created for the workshops were published online to make them easily accessible. The materials from the webinars were also published online as videos. All materials can be found on the University of Maryland Extension website under the Agricultural Law Education Initiative page at <http://go.umd.edu/CSAPage>.

### **Next Steps**

An original goal of the CSA survey was to gather information so that MDA could make a well-informed decision about whether or not to begin to regulate CSA farms as a separate type of farm business. To this end, some survey questions were designed to gauge interest in a regulatory scheme. The survey found that despite some concerns and desire for more information, the majority of farmers did not see a need for regulations.

The survey and subsequent review of contracts pinpointed a clear problem area - poor communication between farmers and members. This issue may be solved with the new resources created through this program, such as the model contract and contracting guide. Before adopting a regulation scheme, it will be important to see if the new resources help to resolve the communication problem. A possible next step could be repeating part or all of the survey in a few years to assess implementation of membership agreements and the quality of risk communication methods.

If consumer complaints persist, and perhaps to strengthen consumer confidence in the CSA farm system, an alternative to adopting a full regulatory scheme is to create a CSA farm certification program like the one in California.

The goal of California's program was to create a precise definition of who can and cannot call themselves a "CSA" and relatedly, who can and cannot reap the benefits associated with the



**In the California program, the farmer must inform the consumers who produced which items in their share boxes. For example, if a farmer produced all the fruits in the share but purchased the honey, the law requires farmers to indicate which farm the honey was purchased from.**

CSA label. California legislators were motivated by complaints from CSA farmers who observed that large agribusinesses and cooperatives were incorrectly labeling their operations “CSA farms.” This made it difficult for true CSA farmers to compete with the larger companies and confused consumers. Despite proclaiming to be locally produced, some companies were filling shares with tropical fruits not even grown in the United States, such as bananas. CSA farmers felt these larger agribusinesses were unfairly profiting by incorrectly marketing their products as CSA products. This type of complaint led to an interest in legislative action.

The California program defines a CSA farm as either a single-farm operation or a multi-farm operation in which a registered direct marketing producer grows food for a group of California consumer shareholders or subscribers who pledge or contract to buy a portion of the producer’s future bounty. The farmer or farmers must register with the state agriculture department, helping to eliminate operations using the CSA label incorrectly. There are

some requirements for California farmers, such as an annual registration fee and labeling requirements designed to improve transparency between farmers and member. The farmer must inform the consumers, either through their website if they have one or in the share boxes, who produced which items. For example, if a farmer produced all the fruits in the share but purchased the honey, the law requires farmers to indicate which farm the honey was purchased from. Essentially, the law gives a concrete definition to the term “CSA farm.” Producers running cooperatives or distribution-type operations can no longer use the term “CSA” for marketing purposes. This program, which began in January 2014, has been mostly well-received. Farmers expressed hesitation at the annual cost but were generally happy to have a law backing up the meaning of a CSA farm.

So what does this mean for Maryland? Maryland could consider adopting a registration or certification program using the California program as a model, rather than a more burdensome regulatory program. Certified farms could use a unique logo or display a certificate to signify meeting certain requirements. This could even be a voluntary program, which would minimize regulation but still provide flexible yet firm standards.

## **Conclusion**

Maryland CSA farmers are already trying to address risk communication. With the materials produced as a result of this project, CSA farmers now have more resources to improve and develop their operations. There is insufficient evidence that a regulatory program of CSA farms is needed, but it will be important to monitor risk communication successes and failures now that farmers have more information and resources. If issues continue, a registration program like the one in California may be a good alternative to regulation. Another option is a certification program, either mandatory or voluntary.



CSA farming is an excellent way to encourage more consumers to buy local agricultural products and build strong relationships between farming and non-farming communities. With the right amount of support from institutions like MDA and University of Maryland, CSA farms can continue to thrive and provide high quality produce to Maryland consumers. ■

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