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ALTERNATIVE ENTERPRISE AND AGRITOURISM: FARMING FOR PROFIT AND SUSTAINABILITY TOOL KIT

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For

XII. LIABILITY INSURANCE

The Legal Guide for Direct Farm Marketing. by Neil D. Hamilton. Contact Drake University Agricultural Law Center, Des Moines, IA 50311, or call 515-271-2065 for copies at $20.00 each. This book is intended for use as educational material to assist farmers, USDA employees, and other advisors in understanding the effect of various laws and regulations on direct farm marketing. The book is intended to provide general information and advice to help direct farm marketers and their advisors understand how the law might apply to a particular situation. It also addresses liability insurance questions.

Safety and Risk Management. Fact Sheet. Small Farm Center, UC, Davis. Call 530-752-8136 or go online at www.sfc.ucdavis.edu/agritourism/factsheet3.html.

15 Common Myths about Equine Insurance. by Julie Fershtman, Attorney at Law, is a frequent speaker at major national conventions and serves those in the horse industry across the country. Printed in Horse Illustrated. A book "Equine Law for Horse Sense is available at 1-800-662-2210 for $18.00.

Montana International, Inc. Insurance and Bonds. For more information call 406-442-5360.

Markel Insurance Company. The company has served the West for several decades and for all types of recreation and business enterprises. For more information, go to www.horseinsurance.com.

Gray's Insurance Team. Call 719-444-8940 for more information.

The Great Outdoors Insurance Program. For more information, go to www.cmn.net/~outdoor.

Recreational Access To Private Lands: Liability Problems and Solutions. By John D. Copeland, Director National Center for Agricultural Law Research and Information, University of Arkansas, Fayetteville, AR 72701, October 1995. Call 501-575-7646.

Understanding Farmers Comprehensive Personal Liability Policy: A Guide for Farmers, Attorneys and Insurance Agents. The book is available from the National Center for Agricultural Law, University of Arkansas, School of Law, Fayetteville, AR 72701 or call 501-575-7646. The book is full of information concerning how the common farm liability policy is interpreted. It is written in a friendly question and answer format.

American Agricultural Law Association. The Association offers information on legal issues to farmers. It publishes a monthly newsletter and hosts annual conferences. For more information call 501-575-7389 or go to www.aglaw-assn.org.

DRAKE UNIVERSITY AGRICULTURAL LAW CENTER

The Legal Guide For Direct Farm Marketing

By Neil D. Hamilton©

PREPARED UNDER A GRANT FROM THE
UNITED STATES DEPARTMENT OF AGRICULTURE
SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION (SARE)

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University of California
Small Farm Center

Fact Sheets for Managing Agri- and Nature-Tourism Operations

Safety and Risk Management

Agricultural tourism can be a mutually beneficial exchange between agriculturists and urban residents. It can help agriculturalists learn more about urban concerns, while enabling urban residents to learn about farming and enjoy nature. It can also increase farm income if a fee is charged for farm visits or if products are sold to visitors. However, farm visits imply risks and potential liability to farm owners, should accidents occur that result in injuries to visitors. There is a need, therefore, to pursue prudent risk management strategies to minimize your liability exposure.

Safety is your first priority when entertaining visitors to your farm or ranch or when consumers visit your operation to participate in picking or other farming experiences, including farm tours.

Your visitors' safety is largely your responsibility. Review the following suggestions as a guide to assessing your own farm or nature tourism operation for potential hazards and to prepare for a safe, enjoyable visit to your farm, ranch or nature operation.

Managing and Reducing Risks

Clearly identify the areas open to farm visitors.

One essential tool to manage risk is liability insurance. Before hosting groups of visitors or planning a public event, check with your insurance agent about the adequacy of your liability coverage. An event insurance rider may be necessary.

- Identify the specific areas that guests will visit; the activities in which they will participate, how they will be supervised, and the safety precautions you will take, and any rules you will need to post. For some activities (horseback riding, for example) a "hold harmless agreement" may be a good idea. A "hold harmless" agreement indicates that the visitor is willing to assume responsibility for certain risks. It does not, however, totally absolve you of a certain level of responsibility for the health and safety of your visitors.

- Plan for Emergencies. Keep a well stocked first aid kit handy. Be sure knowledgeable people are on staff that have CPR and first aid skills. Develop an emergency plan for dealing with natural disasters such as an earthquakes, floods, and fires.

- Suggest that visitors wear appropriate clothing such as closed-toed shoes (tennis shoes or boots, but not sandals). Long pants are recommended for certain activities.

- When you brief visitors, explain that you operate a working production facility. As such, certain hazards come with the territory (uneven ground, insects, climate, farm odors) and visitors must accept those risks and exercise reasonable caution.

- Clearly demarcate "off-limit" areas and specifically designated public areas. Rope off or block access to other areas.

Facilities and Equipment

- Parking: Most counties require that cars park completely off the paved road. Do you have adequate space for the expected number of vehicles?

- Buses: If buses must park away from your farm, plan for a drop-off and loading area.

- Bathrooms: Do you have clean, well stocked, public restrooms in good operation? If you are expecting a large number of visitors, consider renting portable units.

- Security: Depending on the event, you may want to employ additional help to ensure that guests do not put themselves or your farm operation at risk.

- Ladders: Store ladders away from trees and public spaces to eliminate the temptation to climb. This is particularly important with regard to young people.

Park tractors and farm equipment within eyesight.

- Tractors and Equipment: Park tractors and equipment within eyesight (if desired), but away from the visitors' area. Agricultural equipment fascinates people; however, the tractor often becomes a climbing object for children (even when they are supervised by adults). Discuss tractor safety and instill respect for your equipment. Never allow visitors to drive farm equipment.

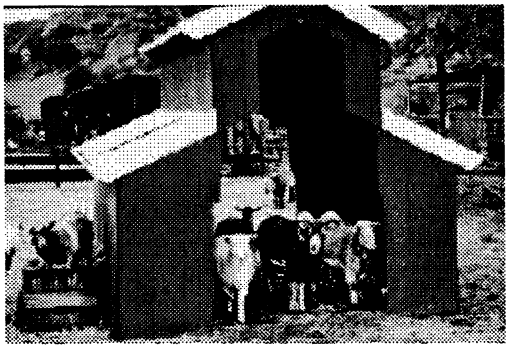
- Pest Management Materials: Pesticides, herbicides, and other farm management products should be safely stored, in a secure location, preferably away from public view.

- Shops and repair facilities are among the most hazardous places on the farm and should generally be off-limits to the public. Close the doors and/or place a rope across the entrance with a "Do Not Enter" sign. Have farm personnel check these areas often.

Livestock and Animals

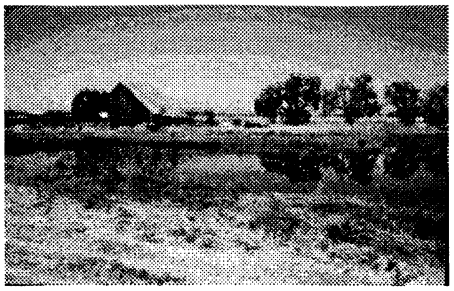
General concepts: All interactions between animals and guests should be supervised by farm staff. Animals will behave differently around a crowd of people. They should be penned or confined for viewing, with limited, controlled access for petting. Carefully select your most

healthy, "user-friendly" animals for public interaction, but remember that animal well-being comes first. Give adequate attention to odor, ventilation, manure, fly, and pest control in the visitor area.



Consider animal well-being first when choosing farm animals for public interaction.

- Pets: Ensure that only very friendly, social dogs will be near the public. However, warn visitors of a puppy's sharp teeth. Even friendly dogs can do damage.
- Cats and kittens: Be wary of their sharp claws and teeth.
- Small livestock: Goats and sheep are generally more widely used as petting animals. As ruminants with no top front teeth, they can be handfed more safely than a horse with top teeth. Also, they are smaller and lighter if they step on a child's foot.
- Poultry: Geese can be very aggressive. Chickens, ducks, and other poultry may be fed. However, to limit the stress on the animals, be careful to rotate them.
- Cattle and calves: Restrain any cow that will be handled, preferably in a grooming chute. Calves should be controlled. Hand milking is not recommended.
- Horses and ponies: Warn visitors that animals may bite. Horse and pony riding requires special rules and insurance. Consult your agent.
- Post a "Please wash your hands after handling animals" sign.
- Provide hand washing facilities, hand wipes, or sanitizing hand cleaner in a convenient area.



Water is a natural temptation for small children. Use ropes or fences to prevent access.

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Lagoons and Ponds

- Water is of special concern because of its attraction to children. Make sure that no visitor will be near water (secure with temporary fencing, cones and/or ropes). Do not trust parents to watch their children.

Hayrides

- Hayrides are popular with farm visitors, but safety precautions need to be taken. Also, additional insurance may be necessary for this activity. Establish a maximum rider load that provides safe seating for all occupants.

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- Insist that participants follow the rules (no smoking, stay seated, legs away from wheels). The tractor speed should be no faster than an adult can jog. If there are problems, stop immediately.

- Check your route regularly for potholes, irrigation flooding, and other hazards that may change daily.

Check on additional insurance necessities before initiating hayride activities.

This fact sheet was produced by Desmond Jolly, Cooperative Extension agricultural economist and director, UC Small Farm Program; and Denise Skidmore, member of the Agriculture and Nature Tourism Workgroup, May 2000.>

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XIII. Regulation and Legal

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XIII. REGULATIONS AND LEGAL

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State Regulations. Where do I find out about state regulations? This question is posed at all directing marketing, alternative enterprises and agritourism workshops. The place to start is with your state department of agriculture. Go get a list of all the state agricultural departments of agriculture by going to:

http:// www.ink.org/public/kda/stateags.html

State Food Inspections Officials. The names and addresses for the state food inspection officials are listed in the FDA web site

http://www.fda.gov/ora/fed-state/directorytable.htm

Local County Officials. Contact your local health officials for guidance on how to obtain the necessary permits and inspections for your business.