Agritourism

There are inherent hazards in agriculture
Americans are litigation happy
You can take every precaution and still get sued
Risk can be managed!
Managing Risk

Avoid risk – don’t offer the activity
Retain the risk - accept it
Minimize the risk – your risk management plan
Transfer the risk – liability insurance
What we’ll cover today

What’s your legal responsibility?
Why a risk management plan is important to your success
Strategies to manage your risks
Hazards on your property
Need for liability insurance
Liability waivers
Employee issues
Children, Elderly, Disabled
Liability = Legal Responsibility

Under California law, the person who owns or leases property is legally responsible for the well-being of visitors.
Strategies to reduce risk and liability

Avoid certain activities
Make your operation as safe as possible
Issue liability waivers
Select the appropriate legal structure for your business
Follow good management rules for hiring & training employees
Buy insurance
Farm Safety

Evaluate your venture – Agritourism poses risks for your visitors, your property, animals, and staff

Evaluate your activities – identify the potential hazards in your planned activities

Examples – parking; hayrides; food; alcohol
Farm Safety

Bar visitors from animals not available for viewing
Block off bodies of water
Clean up visitor areas
Conduct employee safety training
Establish an emergency plan
Explain hazards to your guests
Guard against fire
Identify and enforce visitor areas and rules
Lock your shops
Farm Safety

Post boundaries
Post safety rules
Prevent hand-mouth activities where animals are located
Provide adequate parking
Provide hand washing facilities
Provide sanitary restrooms
Secure pesticides and other poisons
Stay constantly vigilant for hazards
Animals

Dogs
Poultry including geese and turkeys
Small livestock
Horses and ponies
Cattle and calves
Other Liability Concerns

Alcoholic beverages
Transportation
Vicarious liability
Off farm liability
Issue Liability Waivers

A liability waiver asserts that your guests assume responsibility for certain risks.

Does not absolve you of your responsibility for your guests’ health and safety.

Is a legal document, valid in court, and highlights risk for your visitors.

Check with your lawyer or insurance agent.
Appropriate Legal Structure

Your choice will influence many components of your enterprise including management, taxation, and succession planning

- Sole proprietorship
- Limited proprietorship
- General partnership
- Limited partnership
- Limited liability partnership
- Corporation
Talk with your Lawyer and Insurance Agent

Be open & candid about your assets
Determine if your current insurance is adequate
It’s likely you’ll need additional coverage to cover your Agritourism activities
Cheap doesn’t necessarily mean best!
Insurance Types

Liability insurance shifts risk from you to your insurance company
Disability insurance
Life insurance
Key person insurance
Retirement planning
Workers’ compensation
Is it worth it?  Acid test

Does the difference between the insurance premium and the income gained provide you enough income to make the new enterprise worthwhile?

Can you pass on the cost of the insurance to your customers or will the cost of the insurance limit the demand for the activity?
Making the right choices

Your agent: An independent agent can shop with different companies.
Consider an agent with an AFIS certification (Agribusiness and Farm Insurance Specialist).

Your insurance company:
Review your coverages at least once a year.
Get competitive quotes every 2-3 years.
Employee considerations

Background checks on any potential employees who would come into contact with children
Follow good hiring practices
Orient and train your employees
Encourage, empower, reward
Documentation is very important
Provide safe and health conditions
Children, Elderly, Disabled

Special needs demand special attention
Americans with Disabilities Act (ADA) mandates any business serving the public meet specified accessibility standards including access to
Parking
Restrooms
Eating facilities
Transportation
Lodging
Summary

You are responsible for the health and safety of your visitors and employees

Risk cannot be eliminated but can be managed

Creating a risk management plan is essential to running a successful business

There are numerous strategies to reduce risk

You need to rely on your management team – especially your attorney and insurance agent – to determine your liability insurance needs

You are required by law to address the special needs of the disabled
Resources

Agritourism and Nature Tourism in California
UC Agricultural and Natural Resources, copyright 2011

UC Small Farm Program
http://sfp.ucdavis.edu/agritourism/
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