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Fisheries & Tourism Fact Sheet Series: Legal Issues Associated with Aquaculture Tours

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FISHERIES & TOURISM

FACT SHEET SERIES

Legal issues associated with aquaculture tours

Farm tourism has been around since the 1800s, when people in urban areas began coming to farms to visit relatives and escape city life. While in the U.S. most farm tourism has involved traditional land-based agriculture, opportunities are increasing for marine aquaculture farmers, too. The benefits of offering “aquatours” include additional income potential, increased brand and product visibility, and consumer education. As with any business, you should be prepared for potential legal issues.

Duty of reasonable care

Duty of reasonable care specifies an owner/operator’s responsibilities to limit injury to other persons while on the farm property. Be prepared to show that you are taking steps to ensure the safety of customers, employees, and others. Levels of responsibility vary, depending on whether the injured person is a *trespasser* (has not been invited onto the property), a *licensee* (part of the operation itself, such as an employee), or an *invitee* (a person allowed on the property as a guest, with or without payment made). In general, there is a higher duty of care for invitees than for licensees, and trespassers require the least duty of care. In practical terms, make sure that equipment, boats, wharves, ramps, etc. are in proper working order, signs are placed in appropriate areas, and that visitors are given an appropriate level of instruction or guidance about potential hazards on shoreside or marine installations. Overall, it is recommended you consult with a maritime lawyer to review the duty of care in your tourism operation.



Dana Morse



Cathy Billings

Vessels and licensing

Vessel operators transporting customers between the farm and the shore should have the appropriate licensing, such as an Operator of an Uninspected Passenger Vessel; often referred to as a “six-pack” license. In addition, vessels will need to comply with all regulations and requirements for safety and markings. For more detail, consult the fact sheet, “Want to get your captain’s license?”

Biosecurity

Biosecurity is the protection of fish, shellfish, or aquatic plants from infectious (viral, bacterial, fungal, or parasitic) agents. For the farmer, this means both keeping diseases and pests out, and making sure that any problems on the farm do not spread elsewhere. Farmers should consider carefully the protection of their stock and the possibility of transmitting problems on and off the farm. If you are going to engage in aquatourism, develop and implement a comprehensive farm biosecurity plan. Key components and outlines for farm specific biosecurity plans can be found at maineaquaculture.com.

A biosecurity plan might include:

- ▶ Posting signs and notices to all visitors.
- ▶ Maintaining a visitor log.
- ▶ Using foot dip baths to disinfect shoes or having boots available for guests.
- ▶ Having all visitors accompanied by farm personnel at all times.
- ▶ Having visitors avoid direct contact with the crop(s).



Cathy Billings

Insurance

Insurance for aquatourism is likely to break into two general categories: *property insurance* to protect crops, buildings, vessels, employees, equipment, etc.; and *liability insurance* to protect the company and individuals from damages in the event that a guest is injured while on the farm property. Liability is also sometimes referred to as an “umbrella” policy. Both types of insurances are recommended for aquaculture businesses conducting tours. For more info, see the “Maritime law, liability, and insurance” fact sheet.

Business structure

Your business structure will influence the potential success of your tour operation, while also protecting you against legal action. In general, avoid *sole proprietorships*, in which the assets of the business are not separated from your personal assets. Claims against a sole proprietor business can extend to personal property such as a house or boat. You can protect yourself by establishing a business structure, such as a *corporation* or *limited liability company*. Marine industries often use *subchapter-S* or *subchapter-C* corporations, which are feasible for small businesses. Local economic development or business assistance groups in Maine are available to help. See the “Models for fisheries and aquaculture tour businesses” fact sheet for more information. ■

This fact sheet is part of a series intended to provide resources for fishermen and aquaculture farmers who seek to augment their earnings through tourism. More information, including the legal research upon which these fact sheets are based, can be found at seagrant.umaine.edu/fisheries-tourism.

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