



THE OHIO STATE UNIVERSITY

COLLEGE OF FOOD, AGRICULTURAL,
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Hardin County Extension News Release

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Preparing Farms for the Solar Eclipse

Hardin County – Up to a half-million people could flow into the solar eclipse path that will cross Ohio on April 8. The potential increase of visitors to Ohio's rural areas raises unique safety and legal concerns for farmers and farmland owners. To prepare for potential impacts of the eclipse on the agricultural community, OSU's Agricultural & Resource Law Program and OSU's Ag Safety Team offer these five steps farmers and farmland owners can take: secure the farm property; understand trespass laws; know responsibilities for invited guests; plan ahead for farming activities; and be prepared to react to an incident.

Secure the farm property. Farm and farmstead security has been the topic of many discussions as it relates to the upcoming solar eclipse. Depending on traffic congestion and proximity of fields, barn lots, and homesteads, visiting motorists may just pull off the road wherever they are at the time the eclipse begins. This could lead to wandering around of uninvited guests both young and old. Farmers and farmland owners can take several steps to secure the property and prevent access.

First, walk around the farm with someone who has a fresh set of eyes, such as a relative, a neighbor, or a non-farm friend. Have them help identify potential dangers that would appear open, interesting, or attractive to an uninvited guest on the farm. This can be helpful, as we become desensitized to dangers that we see daily, and we tend to overlook them. Take inventory of all equipment and equipment locations prior to April 8th. Remove keys and lock cabs for all equipment in a non-secured building, if possible, or if not possible, remove battery cables off batteries or install a battery disconnect switch. Special care should be taken with anhydrous ammonia tanks. Do not leave nurse tanks sitting in fields and remove hoses when not in use.

Lock all shops and storage buildings, especially areas where pesticides are stored. Secure all ladders to grain bins, silos, hay lofts, etc. Restrict entry to drives, pits, and lagoons with gates and barricades. Livestock operations should not have high biosecurity concerns since eclipse viewers are likely to be "low risk visitors" who do not interact with other livestock facilities. But to avoid biosecurity concerns and reduce the risk of introductions of new diseases, keep livestock inside and keep barns and gates locked. Post "No Trespassing" signs at all points of entry to barn yards and fields. Finally, an added measure to help you in case of an incident or claim is to document what you've done by taking notes, pictures and/or videos of all areas you've secured.

Understand Ohio trespass laws. Trespassers can create problems for farmland owners, and it's common for landowners to want to protect their property from trespassers. Likewise, landowners don't want to live in fear of being liable for harm a trespasser suffers on the property. Even so, Ohio law places high value on human safety, even if that human is a trespasser. As long as a trespasser isn't endangering another human, our laws aim to protect the trespasser from serious harm or a death that could have been avoided. At the same time, Ohio has laws that assign liability to a trespasser who harms private property.

It's important for landowners to understand the rights and responsibilities our trespass laws establish. Here are three important laws that apply to the possibility of trespassers on farms during the solar eclipse: Ohio law does not allow a landowner to use excessive force against someone simply because the person is or might be trespassing. Absent a situation of self-defense or defense of another person, a landowner can be liable for taking willful, wanton, or reckless actions that cause injury or death to a trespasser. This means a landowner could be liable for reckless acts like setting a hidden trap that injures a trespasser or shooting at someone who parks on the road and walks onto the farm to watch the eclipse.

Ohio law places some responsibility on a landowner to protect a "known trespasser" from a "known peril" on the property. If a landowner knows a trespasser is or could be in a position of peril from a dangerous condition the landowner knew about and the landowner does not take ordinary care to protect the trespasser, the landowner could be liable for the trespasser's death or injuries. The steps described above to secure the property become especially important, because such steps show that a landowner is taking ordinary care to reduce known perils and dangerous conditions on the farm that could kill or injure a trespasser who would likely be unaware of the dangers. But note, taking "ordinary care" doesn't require a landowner to prevent any potential injury to a trespasser and doesn't establish automatic liability if there is harm. It requires taking reasonable steps to warn or keep a known trespasser away from a known danger.

Ohio has several laws that can provide compensation to a landowner who suffers property harm from a trespasser, such as civil trespass, criminal trespass, and reckless destruction of vegetation. We describe these laws in our law bulletin "Intentional Harm to Farm Property" in the Farm Office Property Law Library at <https://farmoffice.osu.edu/our-library/property-law>. Armed with an understanding of Ohio trespass laws, there are steps a farmland owner can take to address the potential of trespassers on the farm, such as: Be proactive and post warnings or notices of potential dangers and perils on the property. Install barriers around dangerous conditions where possible, or complete elimination of the dangers when possible is ideal.

Deter trespassers by posting "No Trespassing" signs and "Warning" signs on property boundaries. Do not set any type of trap that could cause intentional harm to a trespasser. Do not pursue or attack a trespasser or hold a trespasser against their will unless the person has committed a felony, such as murder. Do not use excessive or deadly force against a trespasser who is not endangering a person. If the situation warrants, call law enforcement rather than escalating a trespassing situation. Be aware that law enforcement response times may be slower than normal due to the increased population and traffic in the area. Read more about Ohio trespass laws in our bulletin on "Do's and Don'ts of Dealing with Trespassers on the Farm" on the Farm Office Property Law Library at <https://farmoffice.osu.edu/our-library/property-law>.

Know responsibilities for invited guests. If a farmland owner is considering inviting guests onto the farm to view the eclipse, participate in eclipse events, or camp or stay overnight on the farm, there are three major areas that raise legal and safety concerns. Those are liability, insurance, and licensing and permits. We explain the basis for these concerns below.

Liability: Ohio law places a duty on landowners to protect invited social guests from known dangers on the property that can harm them. That duty increases when a guest is paying the landowner for access to the farm, such as in a customer situation. In that case, a landowner must take additional steps to seek out any “hidden” dangers that could harm guests, then take steps to eliminate them or warn guests about the hidden dangerous conditions. But note that Ohio has “immunity laws” that can apply to certain types of guests.

The Recreational User Statute grants immunity from liability for guests who have permission to engage in recreational activities on farmland but who do not provide a payment to the landowner. Farms that are “agritourism operations” can also receive immunity from liability for harm an agritourism visitor suffers from the inherent risks of engaging in agriculturally related agritourism activities, such as feeding livestock, picking produce, or riding on a hay wagon. That immunity only extends to agritourism activities, however, and eclipse activities might not qualify as agritourism activities. Read more about these laws on the Premises Law Library at <https://farmoffice.osu.edu/our-library/premises-liability-law>.

Insurance: Insurance is an excellent tool for reducing the risk of liability for injuries to property visitors. But it’s important to first determine whether a farm policy provides coverage for the types of visitors a farmland owner wants to invite onto the farm. Many farm policies do not cover fee-based customers and activities such as agritourism, farm stays, bed and breakfasts, farm markets, and food sales. In these cases, an additional endorsement is necessary, or a farmland owner may need to obtain a separate policy to cover the guest activities. Read more about farm insurance and activities that might not be covered by a farm policy in the Premises Law Library at <https://farmoffice.osu.edu/our-library/premises-liability-law>.

Licenses and permits: Hosting activities such as farm stays and food sales may require a landowner to obtain a license or permit. First, local zoning regulations could apply to these activities, either allowing, prohibiting, or placing conditions on certain activities such as festivals and camping. Second, there can be food safety concerns with preparing and selling certain types of foods, and a license from the local health department may be necessary. Some foods, such as “cottage foods,” don’t require a license but do require specific labeling. Selling farm goods such as meat and eggs can require licenses from both the local health department and the Ohio Department of Agriculture. Food trucks must obtain a health department license. Advance timing is necessary to obtain the appropriate licenses and permits. For more information on selling foods on the farm, visit the Food Law Library at <https://farmoffice.osu.edu/our-library/food-law>.

If considering inviting social or paying guests, selling food, or hosting an eclipse event, here are several steps farmland owners can take to address safety and liability concerns. Deal with dangerous conditions: The steps described in “secure the farm property,” above, should address many dangerous conditions on a farm property. But if the intent is to invite visitors to specific areas, an additional assessment is necessary. Thoroughly inspect the area for conditions that could harm

someone, and either eliminate, block off, or provide warnings about the conditions. Document all actions taken.

Utilize immunity laws if possible. Review the requirements for the Recreational User's Statute and Agritourism Law to determine whether those laws apply to the guests invited onto the property. Also be aware that charging a fee disqualifies a landowner from receiving immunity from liability under the Recreational User's Statute.

Check in with the insurance agent. Determine whether planned activities are covered under the liability provisions of the farm insurance policy and if not, obtain appropriate coverage. Full disclosure is necessary to ensure coverage, so be sure to explain all potential activities.

Determine if licenses and permits are required. Check local zoning and talk with the local health department to verify whether a license or permit is necessary. If there is not time to obtain a license or permit, determine how to revise to activities that do not require licenses or permits.

Ensure that invited vendors are properly licensed. If the strategy is to invite food vendors onto the property for an eclipse event, ensure that a vendor holds the appropriate license, such as a Retail Food Establishment license or a Food Service Operation license from the vendor's local health department.

Plan ahead for farming activities. Many agencies are suggesting that people (not just in rural or farm scenarios) prepare as if a winter storm is coming. Cell phone use may be affected, travel is likely to be affected, and some services such as deliveries and repair technicians are likely to be delayed. The actual impact of the event is yet unknown to specific areas and farms but will be determined by weather forecasts and travel patterns of visitors.

This "eclipse storm" will probably occur during a critical period for spring farming activities. Overnight travel by spectators to peak viewing areas is likely to take place several days over the weekend of April 6-7. Those staying over the weekend and those doing day trips to peak viewing areas are likely to be trying to leave peak areas right after the event is complete on April 8. If weather and field conditions are favorable, farm field work could be occurring during these time periods. Farming activities could be delayed, and farmers could be forced to deal with interferences from increased populations and travel activities on rural roads.

Proper pre-planning can lessen stress and make "riding the storm" more efficient and less interruptive of farming activities. Here are some steps to consider: Take time now to perform routine maintenance on equipment and lessen the possibility of breakdowns that will need repaired when conditions are less than favorable. Inventories of feed, bedding, medications, etc. should be taken at least a week ahead of the eclipse. Extra supplies should be planned for the days around the event when travel and deliveries may be delayed.

It is important to remember that farmers may be sharing the roads with motorists who are unfamiliar with large agricultural equipment. Make sure all lights and reflective material are clean and functioning. Use of an escort vehicles in both the front and rear are recommended to warn approaching traffic from the front and prevent unsafe passing from the rear. If possible, try to limit

movement of equipment on roadways on the day of the event. The day before, consider locating equipment in fields or areas that need at least a day of work without leaving on roadways.

Be prepared to react to an incident. We all know that the best preparation can reduce risk, but there's still the possibility of an incident occurring. If there is an incident during the solar eclipse period, a farmer must also be prepared to react to the incident. Doing so can minimize the risk of harm or liability. An incident can create chaos and emotional responses, so jot down a list of the following actions and have them readily accessible for guidance.

Call local law enforcement or emergency services, if necessary. Keep in mind, response times of law enforcement and emergency services may be greatly delayed due to the influx of people and traffic in the area. Have a first aid kit on hand and know how to use it. A minor injury might be treatable if appropriate medical supplies are available, and someone is properly trained in first aid care.

Preserve the evidence. Don't move or change anything until the situation is documented. Document what happened right away. Use a phone camera or video to capture images, make notes of what happened, witnesses, and what witnesses said or saw.

Be aware of being documented. It is important in these days and times to assume that everyone has a camera (recorded on a cell phone or otherwise) at all times. A trespasser can use this to show or dispute your actions, for instance. Maintain composure and don't do or say anything that could be harmful if captured in photos or recordings.

Call the insurance agent. An insurance policy likely requires "prompt notification" of property damage or liability that might be covered by the policy, this allows the company to investigate the situation immediately, while evidence is fresh. Failing to give prompt notice might be considered a violation and lead to a loss of insurance coverage. Be sure to have the insurer's contact information readily available.

Additional Ohio Solar Eclipse Resources: There are many resources available on the solar eclipse, explaining topics such as time schedule, path, and local events. Since our focus is on safety and legal issues, we recommend that farmers and farmland owners focus on resources provided by the Ohio Emergency Management Agency and local health departments.

Here are two helpful resources. Ohio Emergency Management Agency: The site at <https://ema.ohio.gov> has a Total Solar Eclipse page and provides contacts for County Emergency Management Agencies. Local Health Departments: The Ohio Department of Health provides a list of local health departments in Ohio at <https://odh.ohio.gov/find-local-health-districts>.

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