

BIOSECURITY: HOW TO HANDLE UNEXPECTED VISITORS

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Biosecurity is described as those management practices aimed at preventing disease-causing organisms from being introduced into a poultry flock. It is a planned methodical approach to securing the farm and poultry houses as a safe, disease free environment in which poultry can thrive.

A flock of birds can become infected in three ways. First, chicks or poults may arrive at the farm already infected. In this case, the infectious agent could have: (a) been passed from the hen into the egg, (b) been present on the egg and infected the embryo during incubation, or (c) been in the hatchery and infected the chick or poult during incubation or just after hatching. Second, chicks or poults may be placed in a house already containing disease-causing organisms. Third, disease causing organisms may be carried into the house at some time during the life of the flock: (a) on people, (b) on equipment, (c) by other birds, animals, or insects, or (d) in the feed, water, or air.

Human-carried disease causing organisms can be extremely difficult to control, even with a comprehensive biosecurity plan in place. It is impossible for a poultry producer to be “on guard” 24 hours a day, 7 days a week.

North Carolina law until recently recognized three classes of land users: (a) trespassers, (b) licensees, and (c) invitees. The law provides each class a different degree of protection, resulting in three degrees of responsibility for the landowner. Only a few states have established the three classes in favor of a standard that provides for “a duty of reasonable care under the circumstances” or combined licensees and invitees into a single class from trespassers.

The law provides the least amount of protection to a **trespasser**, someone who enters the premises of another without permission or any other right to be there. To avoid liability, the law requires only that the landowner avoid willful or wanton injury to the trespasser. The landowner usually knows if someone has been granted permission to be on his property, but must be careful to avoid what might be interpreted as implied permission. For example, if land is not properly posted, or if access is often tolerated without the express permission of the owner, then permission may be implied and a user’s status may change from trespasser to licensee.

A **licensee** accesses land with permission from the owner but provides no benefits, directly or indirectly, to the landowner. A licensee is provided greater legal protection than a trespasser but less than an invitee. Determining a user's status can be confusing because of disparities in the interpretation of owner permission. As mentioned before, if permission is implied, it may change a person's status from trespasser to licensee. To add to the confusion, supposed a landowner opens a property to deer hunters free of charge, which suggests that the hunters are licensees. If that hunting reduces the crop loss caused by deer, then the owner has received a benefit. This could result in the hunters being viewed as invitees rather than licensees.

The landowner's duty to licensees is to avoid willful or wanton injury to them. The owner is also liable for injury caused by dangerous conditions related to on-going operations on his property. Liability usually extends to injuries caused by dangers known to the owner but not immediately apparent to the licensee. For these reasons many landowners may be discouraged from opening land.

The law provides the greatest protection to **invitees** and thereby creates the greatest liability for the landowner. Invitees enter the landowner's property with the knowledge and permission of the owner, and the arrangement is to their mutual benefit. Benefits may be exchanged directly, such as when the invitee pays the landowner for hunting privileges. Benefits may also be exchanged indirectly through cost savings or value added as the result of, for example a timber stand improvement operation or firewood removal following a commercial harvest operation.

The North Carolina Supreme Court has now ruled that we only have **two** classes of land users, **trespassers** and **invitees**. This change means that anyone other than a trespasser must be treated as an invitee. Examples of invitees to a contracted poultry farming operation are service representatives of the contracting company, equipment repairmen, and gas truck drivers.

The following information is **NOT** legal advice but may help you in dealing with unexpected/unwanted visitors. You should contact your attorney for more information and guidance.

Landowners in North Carolina and in other states can protect themselves to a certain extent by following rules and regulations concerning other people's use of their property. You should become familiar with state and local regulations. The following steps will help provide protection from trespassers in North Carolina, but regulations vary from state to state.

1. Properly post private property against trespassing. Signs must be at least 120 square inches and posted no more than 200 yards apart.
2. Post at least one sign on each side and at each corner of the property if the corner can be easily located.
3. Post signs out of reach to reduce the risk of vandalism: replace them if they are destroyed or stolen.

4. Erect a gate or stretch a visible cable across any private road to the property to prevent unauthorized entry.
5. Post explicit biosecurity signs at entrances to farms and poultry houses. These signs should include contact persons with names and phone numbers.
6. Develop good relationships with law enforcement officials.
7. Develop, utilize, and enforce biosecurity plans.
8. Have proper insurance.

If an unexpected/unwanted visitor enters your poultry production premise, you have the right to ask them to leave, but you can only use “reasonable” force in assisting them in their departure. However, please realize that the state of North Carolina operates under a “duty of retreat” policy. Even if the unexpected/unwanted visitor tries to hit you (or does hit, it is your responsibility not to retaliate. This is why it is so important to develop a good relationship with local law enforcement agencies. Educate them about your operation and stress the importance of your farm’s biosecurity plan.

Please consult your attorney for more information.