New Jersey's Agricultural Mediation Program

Fact Sheet FS1254





Cooperative Extension

David A. Kimmel, Agricultural Resource Specialist, State Agriculture Development Committee

Brian J. Schilling, Associate Extension Specialist in Agricultural Policy, Rutgers Cooperative Extension

Jeffrey C. Everett, Chief of Agricultural Resources, State Agriculture Development Committee

Note: This fact sheet is adapted from the New Jersey Agricultural Mediation Program Handbook, authored by the State Agriculture Development Committee.

Overview

At least 35 states have agricultural mediation programs. In New Jersey, the Agricultural Mediation Program is coordinated by the State Agriculture Development Committee (SADC). The goal of the Program is to help farmers and others resolve agriculture-related disputes quickly, amicably, and in a cost-effective manner. The wide range of issues that the Program can help with include Right to Farm disputes (involving farmers, neighbors, and municipalities), U.S. Department of Agriculture (USDA) program issues (involving farmers and USDA agencies), and agricultural credit issues (involving farmers, public lenders, and private lenders).

The SADC established the Program in 2000, in large part to help with resolving Right to Farm disputes. New Jersey's Right to Farm Act provides responsible commercial farms – those abiding by accepted agricultural management practices – with significant protections from nuisance complaints and overly restrictive local regulation. The Act establishes formal processes through which County Agriculture Development Boards or the SADC make official Right to Farm determinations. These processes, however, can be lengthy, costly, and stressful. Formal Right to Farm decisions can also result in lingering tensions between the parties involved. Agricultural mediation is less adversarial than the formal public hearing process, and mediation can help the parties resolve their issues more quickly and effectively and at lower cost.

The Agricultural Mediation Program is also certified by USDA to be the State's mediation service provider regarding USDA program issues and agricultural credit issues.

How does mediation work?

Mediation is a voluntary process in which a trained, impartial mediator helps disputing parties identify and narrow their issues, identify and consider solutions, and determine if they can come to an agreement. Because the mediator has no decision-making authority, successful mediation is based on the voluntary cooperation of all parties.

The SADC maintains a roster of certified mediators. Once each party in a dispute agrees to try mediation, the Agricultural Mediation Program assigns a mediator to the case and schedules a mediation session at a time and place convenient for all parties. In most cases, mediation sessions are held at the local Rutgers Cooperative Extension county office.

During the mediation session, the mediator provides a framework for discussing the issues, and each party is able to express their interests and concerns. When the mediation session concludes, the mediator describes in writing

RUTGERS
New Jersey Agricultural Experiment Station

Rutgers, The State University of New Jersey
88 Lipman Drive, New Brunswick, NJ 08901-8525
Phone: 848.932.5000

any agreement that the parties have reached, and the parties sign the agreement and receive a copy. Each mediation session is confidential.

How much does mediation cost?

Mediation is provided as a free service to all participants. The SADC pays the cost for the mediator. The Agricultural Mediation Program receives a cost-share grant from USDA to help cover the costs of mediation work related to USDA and agricultural credit issues.

What are the benefits?

One of the most important benefits of mediation is that it can save farmers and other parties significant time and legal fees. Mediation is as an alternative to the sometimes lengthy public hearing process for Right to Farm disputes and the longer federal appeals process for USDA program issues.

Mediation also allows the parties in a dispute to shape a dispute's outcome, rather than letting a third-party (e.g., the County Agriculture Development Board or SADC in Right to Farm cases) decide the issue. The mediation process allows the parties to express their views and concerns, enabling the mediator to help identify specific areas of disagreement and conflict as well as common ground. Mediation can also correct misinformation and clarify misunderstandings between the parties. Importantly, by allowing affected parties to mutually participate in the conflict resolution process, relationships can be maintained or even improved.

What types of disputes can be mediated?

The program's roster of trained mediators is available to help resolve three main types of disputes – those involving Right to Farm, USDA, and agricultural credit issues:

How can mediation help with Right to Farm issues?

Many farmers have good relationships with their neighbors and towns, but issues still arise at times and need to be resolved. In the event of a Right to Farm dispute, mediation can be used as an alternative to the formal complaint and public hearing process outlined in the Right to Farm Act. Parties interested in mediation are encouraged to request mediation early on, before any formal public hearings have begun or a formal complaint has been filed. Most Right to Farm-related mediations involve a single session. Additional or follow-up sessions may be scheduled depending on the nature of the issues or the parties' interests.

The Agricultural Mediation Program has been used to address a wide range of Right to Farm issues. Examples include:

- manure management
- odor
- compost
- water runoff
- land clearing
- food processing byproduct land application
- predation control
- deer fencing
- equipment storage
- farm buildings
- greenhouses
- farm markets
- agritourism activities
- noise
- lighting
- signs

Right to Farm Disputes	<u>Issues between farmers and neighbors</u> • Complaints or concerns a neighbor has about a farmer's agricultural management practices <u>Issues between farmers and municipalities or counties</u> • Complaints or concerns a municipality or county has about a farmer's agricultural management practices
USDA Program Disputes	<u>Issues between farmers and USDA agencies in New Jersey</u> • Agricultural credit and other farm program issues with the Farm Service Agency (FSA) • Farm Bill conservation program issues with the Natural Resources Conservation Service (NRCS) • Other issues with USDA agencies and programs (e.g., with Rural Development or the Risk Management Agency)
Agricultural Credit Disputes	<u>Issues between farmers and private lenders or creditors</u>

How can mediation help with USDA issues?

If a farmer's application for a USDA program or service is denied, or if USDA makes an adverse determination regarding any matter, the farmer has the option of requesting mediation and/or pursuing a USDA appeal procedure.

When a USDA agency makes an adverse determination, USDA informs the farmer of its decision and sends the farmer a letter. This letter includes a description of the farmer's mediation and appeal options for seeking to have the decision modified. Each USDA agency has its own regulations, so these options might differ depending on the agency and program involved. Farmers interested in using mediation should request this service prior to pursuing an appeal with the USDA National Appeals Division. Farmers may also request mediation at any time to address a USDA-related issue, regardless of whether USDA has issued an adverse determination.

Some of the more common USDA issues for which farmers have requested mediation include the denial of a loan application or a loan servicing request (mediation with the Farm Service Agency) and the denial of a conservation program application or the termination of a cost-share conservation contract (mediation with the Natural Resources Conservation Service).

How can mediation help with agricultural credit issues?

The ability to access credit is important to running a farm business. Buying or leasing equipment, purchasing farmland, and adding a new barn or other farm infrastructure are examples in which having financing can be necessary. However, uncertainties in agriculture (e.g., weather-related crop losses or poor markets), personal circumstances (e.g., a health issue or strained business relationship), and other factors sometimes constrain a farmer's ability to make the required payments.

When there is an agricultural credit issue, the farmer and lender can use the Agricultural Mediation Program to discuss the matter and consider ideas and solutions. An agricultural credit matter could involve a farm loan from the USDA Farm Service Agency, a loan from a private lender (such as Farm Credit East or a regular commercial bank), or financing from a private business (such as an equipment dealer, infrastructure supplier, or other agricultural service provider). In all of these cases, the Agricultural Mediation Program's trained, impartial mediators are available to help.

Can mediation help with other agriculture-related issues?

Yes. The Agricultural Mediation Program occasionally has been used to help resolve other agriculture-related disputes. Such determinations are made on a case-by-case basis. If a dispute involves farm operations, or an issue impacts farm practices, contact the Program to see if mediation could help.

Can both preserved and non-preserved farms use the mediation program?

Yes. All farms can use the Program. If a mediation session involves a preserved farm, any mediation agreements reached must be consistent with the farm's farmland preservation deed of easement.

How do you request mediation?

The process for requesting mediation is easy. A party interested in using mediation for a Right to Farm, USDA, agricultural credit, or other general agricultural issue needs to complete a simple (two-page) mediation request form and submit the request to the New Jersey Agricultural Mediation Program. Specific request forms for the different issues are available online at www.nj.gov/agriculture/sadc/agmediation/resources.

The information required on the form is basic:

- Name and contact information for the applicant
- Name(s) and contact information for the party or parties with whom a dispute exists
- A brief description of the issue for which mediation is requested
- A list of any other individuals the applicant would like to include in the mediation (e.g., agricultural experts, a spouse, an employee, an attorney, etc.)

If the mediation request involves a USDA issue, a copy of the USDA's adverse determination letter (if applicable) should also be provided.

After receiving the initial request, the Agricultural Mediation Program lets the other party know about the request and asks them if they are interested in using the Program. If the other party agrees to participate (by similarly submitting a request form), the Program continues the process and schedules a mediation session for the parties. During this process, each party is provided with a copy of the other party's request form, and the forms are included in the assigned mediator's packet of background case information.

How successful has the Agricultural Mediation Program been?

Since the Program began in 2000, it has helped many farmers, neighbors, municipalities, and USDA agencies discuss and resolve their agricultural issues. Mediation has been requested in more than 140 cases. Actual mediation sessions have been held in more than 80 cases (the Program is voluntary, so both parties must agree to participate for a session to be scheduled). Of the cases that had mediation sessions, more than 50 percent were resolved and/or resulted in a better understanding of the issues as a result of the mediation process.

For more information

For more information on the New Jersey Agricultural Mediation Program, contact the State Agriculture Development Committee at (609) 984-2504 or sadc@ag.state.nj.us. Local County Agriculture Development Boards are also good contacts if you have questions. For additional information on agricultural practices, Rutgers Cooperation Extension county agricultural agents are a good resource.

State Agriculture Development Committee (SADC)
www.nj.gov/agriculture/sadc/agmediation

County Agriculture Development Boards (CADBs)
www.nj.gov/agriculture/sadc/farmpreserve/contacts/cadbs.html

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Rutgers, The State University of New Jersey
88 Lipman Drive, New Brunswick, NJ 08901-8525
Phone: 848.932.5000