



# New Jersey Farmland Preservation Connections

April 2011

## Solar Energy AMP Proposed

The SADC's proposed agricultural management practice (AMP) for on-farm solar energy generation was published in the February 11, 2011 issue of the *New Jersey Register*. The new rule would establish standards for commercial farms to qualify for right-to-farm protection for solar energy generation. (The proposed rule should not be confused with separate standards the SADC is required to develop to address solar energy generation on preserved farms.)

Major provisions of the proposed AMP include preference to non-permanent mounting methods; limits on the extent of site disturbance; a noise standard; minimum setback requirements; screening requirements, and a maximum system height of 20 feet. Commercial farms seeking right-to-farm protection also must meet farmland assessment criteria. These include a 2 megawatt limit on the amount of energy that can be generated and a 10-acre limit on the amount of land that can be devoted to solar energy generation. Additionally, for every 1 acre of land devoted to solar energy generation, another 5 acres must be devoted to agricultural or horticultural operations.

The deadline for public comment on the proposed rule is April 8, 2011. The SADC currently is working to develop an AMP for wind energy generation. Following that, staff will begin drafting rules that establish standards for solar and wind energy generation on preserved farms.

For a copy of the rule proposal or more information on solar and wind energy generation on farms, visit [www.nj.gov/agriculture/sadc/news/hottopics/index.html](http://www.nj.gov/agriculture/sadc/news/hottopics/index.html) or contact Hope Gruzlovic at [hope.gruzlovic@ag.state.nj.us](mailto:hope.gruzlovic@ag.state.nj.us).

## SADC Issues Initial Decision in Winery Right-to-Farm Case

The SADC in February issued an initial agency decision in a right-to-farm case that examined the activities at a Mercer County winery to determine which are protected by the Right to Farm Act. The SADC found that certain disputed activities at Hopewell Valley Vineyards are protected and that a winery functions as a unique type of farm market that is eligible for right-to-farm protection. The SADC also found that certain "accessory" activities that have a direct and clear connection to the winery's agricultural output are protected, such as the offering of background musical entertainment, or minor food items for the purpose of enhancing the wine drinking experience.

While the SADC recognized that destination-type activities such as weddings, corporate retreats and catered events may be an effective marketing tool, it found that these are primarily services provided by the winery that fall outside of the categories of protected activities in the Act.

The SADC's decision is only the first step of the right-to-farm hearing process. Its findings will be forwarded to the Mercer County Agriculture Development Board (CADB), which will hold a public hearing and issue its own findings in this matter. If the CADB's decision is not appealed, then its determination will be final. If it is appealed, then the case will be returned to the SADC

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for a final agency decision that can be appealed to the Appellate Court. It is important to note that the fact that certain activities do not qualify for right-to-farm protection does not mean that an agricultural operation cannot conduct those activities. It means that those activities remain subject to municipal regulation.

For a copy of the initial decision, visit

[www.nj.gov/agriculture/sadc/rtfprogram/conflictres/formal/hvv.pdf](http://www.nj.gov/agriculture/sadc/rtfprogram/conflictres/formal/hvv.pdf). If you have questions, contact SADC Chief of Legal Affairs Brian Smith, Esq., at [brian.smith@ag.state.nj.us](mailto:brian.smith@ag.state.nj.us).

### **Mediation Can Help Resolve USDA Disputes and More**

The SADC's Agricultural Mediation Program not only can help farmers resolve right-to-farm conflicts with municipalities and neighbors, but it also can be used to help settle disputes with U.S. Department of Agriculture (USDA) agencies. The USDA has authorized the SADC to serve as its certified mediation provider. Farmers can request mediation to help resolve a wide range of issues — everything from loan and conservation program disputes to insurance or rural housing issues with the Farm Service Agency, Natural Resources Conservation Service, Risk Management Agency, Rural Development or other USDA agencies.

Mediation also can be used to help settle agricultural credit issues and potentially other farm issues that affect a farm's viability. The Agricultural Mediation Program is free, voluntary and confidential. Because the mediator has no decision-making authority, successful mediation is based on the voluntary cooperation of all parties. Generally, the process takes only one or two meetings.

For more information on mediation, visit

[www.nj.gov/agriculture/sadc/rtfprogram/conflictres/agmediation/index.html](http://www.nj.gov/agriculture/sadc/rtfprogram/conflictres/agmediation/index.html) or contact Dave Kimmel at [david.kimmel@ag.state.nj.us](mailto:david.kimmel@ag.state.nj.us).

### **New Guidance Library Taking Shape**

Be sure to check out the SADC's new Guidance Library, which is being stocked with publications and videos that explain key aspects of the farmland preservation process, for landowners and preservation partners alike. The Guidance Library can be accessed from the "Featuring" section on the lower left of the SADC's home page.

The first in a series of fact sheets cover topics such as exception areas and divisions of the premises. Two videos — "first-cut" presentations — have been posted to provide a look at what's in progress and to solicit your feedback. We're interested in hearing your thoughts on these first additions to the Guidance Library as well as ideas for future publications or presentations you would find helpful.

Visit the Guidance Library at [www.nj.gov/agriculture/sadc/publications/guidance.html](http://www.nj.gov/agriculture/sadc/publications/guidance.html).