

The National Agricultural  
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An Agricultural Law Research Project

**States' Alternative Dispute Resolution Statutes**  
**State of Wyoming**

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## States' Alternative Dispute Resolution Statutes

### STATE OF WYOMING

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#### **Arbitration**

Title 1, Chapter 36.

*Current through the 2008 Budget Session*

#### § 1-36-101. Short title

W.S. 1-36-101 through 1-36-119 may be cited as the Uniform Arbitration Act.

#### § 1-36-102. "Court" defined; jurisdiction

"Court" means the district court having jurisdiction of the parties. An agreement providing for arbitration in this state may be enforced by the court in the county where the parties to the controversy reside or may be personally served.

#### § 1-36-103. Written agreement to submit controversy to arbitration valid

A written agreement to submit any existing or future controversy to arbitration is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of the contract. This includes arbitration agreements between employers and employees or between their respective representatives unless otherwise provided in the agreement.

#### § 1-36-104. Duty of court on application of party to arbitrate

(a) On application of a party showing an arbitration agreement and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration. If the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to determine the issue raised and shall order or deny arbitration accordingly.

(b) If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications to compel arbitration, the application shall be made therein. Otherwise the application shall be made in the court of proper venue.

(c) Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

(d) An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or because any fault or grounds for the claim sought to be arbitrated have not been shown.

§ 1-36-105. When court to appoint arbitrators

If the arbitration agreement provides a method of appointment of arbitrators this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator fails or is unable to act and his successor has not been appointed, the court on application of a party shall appoint one (1) or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

§ 1-36-106. Powers of arbitrators

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by law.

§ 1-36-107. Notice and hearing

(a) The arbitrators shall appoint a time and place for the hearing and serve the parties with notice either personally or by registered mail not less than five (5) days before the hearing. Appearance at the hearing waives the notice. The arbitrators may adjourn the hearing from time to time as necessary, and on request of a party or upon their own motion may postpone the hearing to a time not later than the date fixed by the agreement for making the award, unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(b) The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(c) The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If during the course of the hearing an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators may continue with the hearing and determination of the controversy.

§ 1-36-108. Right to be represented by attorney; effect of waiver

A party may be represented by an attorney at any arbitration proceeding or hearing. A waiver of representation prior to the proceeding is ineffective.

§ 1-36-109. Authority of arbitrators to issue subpoenas and administer oaths; service of subpoenas; depositions; compelling person to testify; witness fees

(a) The arbitrators may issue subpoenas for the attendance of witnesses, for the production of books, records, documents and other evidence and may administer oaths. Subpoenas issued shall be served, and upon application to the court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken of a witness who cannot be subpoenaed or is unable to attend the hearing, in the manner designated by the arbitrators.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) The same fees for attendance as a witness shall be paid as for a witness in the district court.

#### § 1-36-110. Award of arbitrators

(a) The award shall be in writing and signed by the arbitrators joining in the decision. A copy shall be delivered to each party personally, or by registered mail or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement, or if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him.

#### § 1-36-111. Modification of award

(a) On application of a party or an order of the court, the arbitrators may modify the award:

(i) When there was an evident miscalculation of figures or description of a person or property referred to in the award;

(ii) When the award is imperfect as to form not affecting the merits of the controversy; or

(iii) For the purpose of clarifying the award.

(b) The application shall be made within twenty (20) days after delivery of the award to the applicant. Written notice shall be given promptly to the opposing party, stating he must serve his objections within ten (10) days from receipt of the notice. The award as modified is subject to the provisions of W.S. 1-36-113, 1-36-114 and 1-36-115.

#### § 1-36-112. Expenses and fees for arbitrators

The arbitrators' expenses, fees and other costs, not including counsel fees, incurred in the arbitration shall be paid as provided in the award, unless otherwise provided in the arbitration agreement.

#### § 1-36-113. Confirmation of award by court

Upon application of a party the court shall confirm the award unless within the time limits allowed grounds are urged for vacating or modifying the award.

#### § 1-36-114. When court to vacate award

(a) Upon application of a party the court shall vacate an award where:

(i) The award was procured by corruption, fraud or other undue means;

(ii) There was evident partiality by an arbitrator appointed as a neutral, corruption of any of the arbitrators or misconduct prejudicing the rights of any party;  
(iii) The arbitrators exceeded their powers;  
(iv) The arbitrators refused to postpone the hearing upon sufficient cause being shown, refused to hear evidence material to the controversy or otherwise conducted the hearing as to prejudice substantially the rights of a party; or  
(v) There was no arbitration agreement, the issue was not adversely determined by a court as provided by law and the applicant did not participate in the arbitration hearing without raising the objection. The fact that the relief was such that it could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm the award.

(b) An application for vacating an award shall be made within ninety (90) days after delivery of a copy of the award to the applicant, or if predicated upon corruption, fraud or other undue means it shall be made within ninety (90) days after the grounds are known or should have been known.

(c) In vacating the award on grounds other than stated in subsection (a)(v) the court may order a rehearing before new arbitrators chosen as provided in the agreement or by the court in accordance with W.S. 1-36-105. If the award is vacated on grounds set forth in paragraph (a)(iii) or (iv) of this section the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with W.S. 1-36-105. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(d) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

#### § 1-36-115. When court to modify or correct award

(a) Upon application made within ninety (90) days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(i) There was an evident miscalculation of figures or an evident mistake in the description of any person or property referred to in the award;  
(ii) The arbitrators awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or  
(iii) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify and correct the award as to intent and shall confirm the award as so modified and corrected. Otherwise the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

#### § 1-36-116. Judgment upon granting order confirming, modifying or correcting award; costs and disbursements

Upon the granting of an order confirming, modifying or correcting an award, the judgment shall conform and be enforced as any other judgment. Costs of the application, proceedings and disbursements may be awarded by the court.

§ 1-36-117. Application to court to be by motion; notice and hearing to be in manner provided by law

An application to the court for relief shall be by motion and shall be heard in the manner provided by law or rule of court. Notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an action unless otherwise specified by the parties.

§ 1-36-118. Venue upon initial and subsequent applications

An initial application shall be made to the court of the county in which the agreement provides the arbitration hearing shall be held. Otherwise the application shall be made in the county where the adverse party resides or has a place of business or, if he has no residence or place of business in this state, to the court of the county where the adverse party can be served. All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.

§ 1-36-119. Appeals

(a) An appeal may be taken from:

- (i) An order denying the application to compel arbitration;
- (ii) An order granting an application to stay arbitration;
- (iii) An order confirming or denying confirmation of an award;
- (iv) An order modifying or correcting an award;
- (v) An order vacating an award without directing a rehearing; or
- (vi) A final judgment or decree entered by the court.

(b) The appeal shall be taken in the manner of a civil action.

**Arbitration Procedures**  
Title 1, Chapter 21, Article 8.

*Current through the 2008 Budget Session*

§ 1-21-801. Procedure generally

Any civil cause pending before a judge may be submitted to the arbitration of three (3) men by agreement of the parties. Each party shall select one (1) arbitrator and the two (2) so selected shall choose the third. They shall be sworn by the judge and proceed in a summary manner to hear the cause. Any of the arbitrators may administer oaths, issue subpoenas for witnesses and compel their attendance, and punish for contempt. They shall make their awards in writing, any two (2) concurring being the award of all. The award shall be reported to the judge who shall enter judgment accordingly. The judgment is final unless it is made to appear to the judge within ten (10) days after the entry of judgment that the award was obtained by fraud, corruption or any undue means, in which case the judge shall set aside the award and the case shall stand for trial as though no award had been made.

§ 1-21-802. Appeal of setting aside award; grounds

An aggrieved party may appeal the decision of the judge to set aside the award upon grounds of fraud, corruption or undue means as in other cases.

§ 1-21-803. Appeal of setting aside award; proceedings in district court

If on appeal of any such award, the district court is satisfied the award was obtained by fraud, corruption or other undue means, the court shall set aside the award and proceed to hear and determine the cause on the merits.

§ 1-21-804. Appeal of setting aside award; affirmance

If the court determines the award was not obtained by fraud, corruption or other undue means, it shall render judgment thereon for costs of the suit and award execution as in other cases.

**Mediation**  
Title 1, Chapter 43.

*Current through the 2008 Budget Session*

§ 1-43-101. Definitions

(a) As used in this act:

- (i) "Communication" means any item of information disclosed during the mediation process through files, reports, interviews, discussions, memoranda, case summaries, notes, work products of the mediator, or any other item of information disclosed during the mediation, whether oral or written;
- (ii) "Mediation" means a process in which an impartial third person facilitates communication between two (2) or more parties in conflict to promote reconciliation, settlement, compromise or understanding;
- (iii) "Mediator" means an impartial third person not involved in the conflict, dispute or situation who engages in mediation;
- (iv) "Party to the mediation" means a person who is involved in the conflict, dispute or situation and is rendered mediation services by a mediator or consults a mediator with a view to obtaining mediation services;
- (v) "Representative of the mediator" means a person employed by the mediator to assist in the rendition of mediation services;
- (vi) "Representative of the party" means a person having authority to obtain mediation services on behalf of the party to the mediation or to act on advice rendered by the mediator;
- (vii) "This act" means W.S. 1-43-101 through 1-43-104.

§ 1-43-102. General rule of confidentiality

Any communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the mediation process or those reasonably necessary for the transmission of the communication.

§ 1-43-103. General rule of privilege; claiming privilege; exception

(a) A party to the mediation has a privilege to refuse to disclose and to prevent all mediation participants from disclosing confidential communications.

(b) The privilege under this section may be claimed by a representative of the party or by a party, his guardian or conservator, the personal representative of a deceased party, or the successor, trustee or similar representative of a corporation, association, or other organization, whether or not in existence.

The person who was the mediator may claim the privilege but only on behalf of the party. The mediator's authority to do so is presumed in the absence of evidence to the contrary.

(c) There is no privilege under this section if any one (1) of the following conditions is met:

- (i) All the parties involved provide written consent to disclose;
- (ii) The communication involves the contemplation of a future crime or harmful act;
- (iii) The communication indicates that a minor child has been or is the suspected victim of child abuse as defined by local statute;
- (iv) The communication was otherwise discoverable prior to the mediation;
- (v) One of the parties seeks judicial enforcement of the mediated agreement.

#### § 1-43-104. Immunity

Mediators are immune from civil liability for any good faith act or omission within the scope of the performance of their power and duties.

### **Agriculture Mediation Service**

Title 11. Chapter 41.

*Current through the 2008 Budget Session*

#### § 11-41-101. Short title

This chapter is known and may be cited as the "Agriculture Mediation Service Act of 1987".

#### § 11-41-102. Definitions

(a) As used in this chapter:

- (i) "Action" means a court action by a creditor against a farmer for payment of a debt, to enforce or foreclose a security interest, lien or mortgage, or to repossess or declare a creditor's interest in real property. "Action" also includes any matter filed in a court of law or before an agency by a party to resolve a dispute;
- (ii) "Agricultural property" means real property that is used principally for farming or ranching, real property that is a farmer's principal residence and any land contiguous to the residence, personal property that is used as security to finance farming or personal property that is used for farming;
- (iii) "Board" means the agriculture and natural resource mediation board;
- (iv) "Creditor" means any person who holds a mortgage on or is a vendor of a land contract for agricultural property, who has a lien on or security interest in agricultural property or who is a judgment creditor with a judgment against a farmer affecting the farmer's agricultural property;
- (v) "Farmer or rancher" means a person engaged in farming or ranching who owns or leases a total of sixty (60) acres or more of land that is agricultural property and whose gross sales of farm products for the preceding year equaled twenty thousand dollars (\$20,000.00) or more;
- (vi) "Farming or ranching" means the employment and operation of real property for the production of agricultural products, including but not limited to:
  - (A) Raising, harvesting and selling crops, hay and other products of the soil;

(B) Feeding, breeding, management and sale of livestock, poultry, fur bearing animals or honeybees, or the produce thereof; or

(C) Dairying and the sale of dairy products.

(vii) "Mediation" means the act of a neutral person in intermediating between or among contending parties with a view to assisting them to adjust or settle their dispute by mutual agreement;

(viii) "Parties" means the primary decision makers engaged in the mediation process;

(ix) "Standing" means a person that is given the authority to enter into a mediation process by the board.

#### § 11-41-103. Agriculture mediation board created; membership

(a) There is created in the governor's office the agriculture mediation board which consists of six (6) members, five (5) of whom shall be appointed by the governor with the advice and consent of the senate in accordance with W.S. 28-12-101 through 28-12-103. The director of the department of agriculture or his designee shall be a member of the board. The board shall elect a chairman from its members.

(b) Each appointed member shall serve a four (4) year term. If a vacancy occurs on the board, the governor with the advice and consent of the senate shall appoint a person to serve the unexpired term. Initial appointments or any vacancy occurring between sessions of the legislature may be filled by the governor in accordance with W.S. 28-12-101(b).

(c) Each appointed member of the board shall serve without compensation.

#### § 11-41-104. Powers and duties of the board

(a) The board shall:

(i) Prepare all forms necessary for the administration of this chapter and shall ensure that forms are disseminated and that the availability of mediation under this chapter is publicized;

(ii) Promulgate rules and regulations necessary to implement this chapter. The rules may define owners and creditors of agriculturally related businesses and permit owners and creditors of such businesses to participate in mediation subject to the same terms and conditions applicable to farmers and creditors under this chapter. The rules may also define, for purposes of this chapter, persons who have standing to seek mediation, proper procedures for initiating and conducting mediation processes and issues and subjects to which mediation may be made which shall include wetlands determination, compliance with farm programs, agricultural credit, rural water loan programs, grazing on public lands or other issues and subjects which the board considers appropriate.

(b) The board may employ and remove for cause administrative, technical and other personnel. The board may provide training programs for prospective mediators and obtain technical information when needed.

#### § 11-41-105. Selection of mediators; duties; compensation; immunity

(a) The board shall select mediators and shall establish training standards for mediators which shall include training in mediation processes and conflict resolution.

(b) Mediators shall:

- (i) Listen to the parties desiring to be heard;
- (ii) Endeavor to create a climate conducive to the resolution of differences between the parties;
- (iii) Inform the parties as to the existence of available assistance programs;
- (iv) Repealed by Laws 1988, ch. 48, § 2.
- (v) Assist the parties in attempting to arrive at an agreement;
- (vi) Assist in the preparation of a written agreement.

(c) Mediators shall be compensated in an amount approved by the board. The parties in the mediation process shall share the costs of the mediation equally. The board may establish a fee schedule to recover, to the extent possible, the board's administrative costs from the parties upon the execution of a mediation agreement.

(d) Mediators, and University of Wyoming financial analysts and extension personnel to the extent they participate in mediations under this chapter, are immune from civil liability for any good faith act or omission within the scope of the performance of their powers and duties under this chapter.

(e) After receiving a mediation request involving an agricultural debt, the board may refer the borrower to the University of Wyoming college of agriculture through the extension service or other financial analysts skilled in assisting with farm debt matters. The financial analyst shall assist the borrower in the preparation of information relative to the finances of the borrower for the initial mediation meeting.

(f) Mediators may not compel a settlement.

#### § 11-41-106. Confidentiality of records

(a) Upon acceptance and initiation of a mediation procedure, all documents and discussions, recorded or otherwise, shall be confidential and are not public records under W.S. 16-4-201 through 16-4-205.

(b) All data regarding the finances of individual borrowers and creditors which is created, collected and maintained by agricultural mediators and which are not already matters of public record are confidential and are not public records under W.S. 16-4-201 through 16-4-205.

#### § 11-41-107. Suspension of court or agency action to allow for voluntary mediation

(a) During the pendency of any action brought by parties to the mediation process, the court, or agency if filed before an agency, may, upon the written stipulation of all parties to the action that they wish to engage in mediation under this chapter, enter an order suspending the action.

(b) A suspension order under subsection (a) of this section suspends all orders and proceedings in the action for the time period specified in the suspension order. In specifying the time period, the court or agency shall exercise its discretion for the purpose of permitting the parties to engage in mediation without prejudice to the rights of any person. The suspension order may include other terms and conditions as the court or agency may deem appropriate. The suspension order may be revoked upon motion of any party or upon motion of the court or agency.

(c) If all parties to the action agree, by written stipulation, that all issues before the court or agency are resolved by mediation under this chapter, the court or agency shall dismiss the action. If the parties do not agree that the issues are resolved or if the court or agency revokes the suspension order under

subsection (b) of this section, the action shall proceed as if no mediation had been attempted.

§ 11-41-108. Mediation process

(a) Any conflict between two (2) parties which involves agriculture or natural resources may be subject to mediation. This may include, but not be limited to, conflicts between federal, state and local agencies, individuals and organizations. No creditor shall institute an action as defined in this chapter without first notifying the borrower of the availability of mediation services under W.S. 11-41-101 through 11-41-110.

(b) A farmer or creditor wishing to resolve a dispute between them involving the farmer's agricultural property and the creditor's interest in a mortgage, land contract, lien, security interest or judgment affecting the agricultural property, either before an action has been initiated to which they are parties or after entry of a suspension order in an action to which they are parties under W.S. 11-41-107, may participate in mediation in accordance with this chapter.

(c) To participate in mediation, the parties shall submit a request for mediation, together with an agreement to mediate, to the board on forms prepared by the board.

(d) If no action has been initiated to which the farmer and creditor are parties, the board shall identify the parties to any mediation under this chapter and shall require all parties to enter into an agreement to refrain from initiating any action among the parties affecting the subject matter of the mediation for a sixty (60) day period.

(e) After the board has obtained the agreement or agreements under subsections (c) and (d) of this section, the board shall provide the parties with the names, mailing addresses and qualifications of mediators located in the geographical area in which the agricultural property or farmer is located. The parties shall select a mediator or, upon request of the parties, the board shall designate a mediator for the parties.

§ 11-41-109. Effect of mediation

The parties may at any time withdraw from mediation. The parties have full responsibility for reaching and enforcing any agreement among them. After the expiration of the sixty (60) day period under W.S. 11-41-108(d) or the time period specified in the suspension order under W.S. 11-41-107, the mediation process shall terminate unless extended by unanimous mutual assent of the parties.

§ 11-41-110. Effect on other creditors; no delay

With respect to mediation between parties before an action has been initiated to which they are parties, no agreement to mediate, or the fact that mediation is currently occurring, shall have the effect of delaying, postponing or extending any time limits in any legal proceeding commenced to enforce a mortgage, land contract, lien, security interest or judgment commenced by a creditor other than the creditor or creditors participating in the mediation.

Section 1. Purpose.

These Rules and Regulations implement the Agriculture Mediation Service Act of 1987 as amended by the Agriculture and Natural Resource Mediation Act of 1998 by setting forth the qualifications and role of mediators and describing how the Mediation process will be conducted. The goal of the Mediation program is to resolve disputes by using a voluntary and confidential Mediation process by which a trained neutral party assists with primary decision makers to reach mutually agreed upon solutions.

Section 2. Authority.

These rules are adopted pursuant to the Agriculture Mediation Service Act of 1987 as amended by the Agriculture and Natural Resource Mediation Act of 1998, W.S. 11-41-101 through W.S. 11-41-110.

Section 3. Definitions.

As used in this Chapter and in addition to the definitions found in W.S. 11-41-102(a), the following terms are defined:

(a) "Act" means the Agriculture Mediation Service Act of 1987 as amended by the Agriculture and Natural Resource Mediation Act of 1998, W.S. 11-41-101 through 11-41-110;

(b) "Action" under W.S. 11-41-102(a)(i) means a court action by a Creditor against a Farmer for payment of a debt, to enforce or foreclose a security interest, lien or mortgage, or to repossess or declare a Creditor's interest in real property. "Action" also includes any matter filed in a court of law or before an agency by a party to resolve a dispute.

(c) "Agricultural property" under W.S. 11-41-102(a)(ii) means real property that is used principally for Farming or ranching, real property that is a Farmer's principal residence and any land contiguous to the residence, personal property that is used as security to finance Farming or personal property that is used for Farming;

(d) "Board" under W.S. 11-41-102(a)(iii) means the Agriculture and Natural Resource Mediation Board;

(e) "Creditor" under W.S. 11-41-102(a)(iv) means any person who holds a mortgage on or is a vendor of a land contract for Agricultural property, who has a lien on or security interest in Agricultural property or who is a judgment Creditor with a judgment against a Farmer affecting the Farmer's Agricultural property;

(f) "Farmer" or "Rancher" under W.S. 11-41-102(a)(v) means a person engaged in Farming or ranching who owns or leases a total of sixty (60) acres or more of land that is Agricultural property and whose gross sales of farm products for the preceding year equaled twenty thousand dollars (\$20,000.00) or more;

(g) "Farming or ranching" under W.S. 11-41-102(a)(vi) means the employment and operation of real property for the production of agricultural products, including but not limited to:

(i) Raising, harvesting and selling crops, hay and other products of the soil;

(ii) Feeding, breeding, management and sale of livestock, poultry, fur bearing animals or honeybees, or the produce thereof; or

(iii) Dairying and the sale of dairy products.

(h) "Natural Resources" means the physical, chemical or biological properties of natural resources including but not limited to air, water, wildlife, soil, minerals, or vegetation.

(i) "Mediation" under W.S. 11-41-102(a)(vii) means the act of a neutral person in intermediating between or among contending Parties with a view to persuading them to adjust or settle their dispute by mutual agreement.

(j) "Parties" under W.S. 11-41-102(a)(viii) means the primary decision makers engaged in the Mediation process.

(k) "Standing" under W.S. 11-41-102(a)(ix) means a person is given the authority to initiate a Mediation process by the Board.

#### Section 4. Persons Who Have Standing to Seek Mediation.

(a) In order for Parties to be given the authority to enter into the Mediation process, they must meet the following criteria:

(i) Parties or their authorized designee(s) must have the authority to settle the dispute, and

(ii) Parties must be active participants in the Mediation process.

#### Section 5. Where the Mediation Process Applies.

(a) Pursuant to W.S. 11-41-108(a): Any conflict between two (2) Parties which involves agriculture or Natural Resources may be subject to Mediation. This may include, but not limited to, conflicts between federal, state and local government agencies, individuals and organizations.

#### Section 6. Qualifications and Duties of Mediators.

(a) In order to become a mediator, one must meet the following qualifications:

(i) In order to be considered qualified, each mediator shall be certified as having attended and satisfied the requirements of a Board-approved Mediation training program; an approved training program shall provide at least (30) thirty hours of course work in Mediation process, resolving conflicts, farm finance negotiating, communications, issue and problem framing, final bargaining and agreement writing. The Board shall establish a listing of approved training programs and shall certify each mediator who has attended and satisfactorily completed the training requirements; and

(ii) Individuals with dispute resolution experience at the time the Agriculture Mediation Act of 1987 as amended by the Agriculture and Natural Resource Mediation Act of 1998 was passed may petition the Board to become mediators under the act. The Board may approve such application on a case-by-case basis, and may specify areas of additional training which must be satisfied before the petitioner will be certified.

(b) In performing their duties, mediators shall:

(i) Under W.S. 11-41-105(b)(i) listen to the disputing Parties desiring to be heard;

(ii) Attempt to mediate between the disputing Parties;

(iii) Remain neutral;

(iv) Under W.S. 11-41-105(b)(iii) inform the disputing Parties as to the existence of available assistance programs;

(v) Under W.S. 11-41-105(b)(v) assist disputing Parties in attempting to arrive at an agreement for the future conduct of working relations among them;

(vi) Under W.S. 11-41-105(b)(vi) if requested by the Parties, assist in the preparation of a written agreement;

(vii) Comply with all provisions of the Act and the Rules and Regulations of the Board; and

(viii) Under W.S. 11-41-105(b)(ii) endeavor to create a climate conducive to the resolution of differences between the Parties.

(c) The Board will bi-annually review and renew the certificates of those mediators who have demonstrated satisfactory performance of their Mediation responsibilities as outlined in these rules.

(d) To be recertified, mediators will submit, with their request for recertification, evidence of at least eight (8) hours of additional training on Mediation process skills since their last certification.

(e) Certified mediators agree to act as mentors for others, when requested to do so by the Board. The Board, with consent of the Parties, may designate a person to act as an observer of a Mediation meeting.

(f) Certified mediators will provide a written statement outlining to the Board:

(i) The mediator's name, address, and phone number.

(ii) A description of the mediators training in the Mediation process.

(iii) A description of the mediators Mediation experience.

- (iv) A description of the mediator's Mediation style.
- (v) A description of those subjects for which the mediator is available.
- (vi) A description of mediator's fees.
- (vii) The date on which the written statement was prepared; and
- (viii) Any other information the mediator feels relevant.

#### Section 7. Procedures for Establishing a Mediation under the Act.

- (a) A request for Mediation shall be submitted to the Board in writing on a form provided by the Board. The request shall be submitted to the Wyoming Agriculture and Natural Resource Mediation Board in care of the Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, Wyoming 82002.
- (b) A request for Mediation shall include:
  - (i) The name and address of each party, or authorized designee (s),
  - (ii) Information sufficient to establish that the dispute for which Mediation is requested meets the requirements of the act.
  - (iii) Summary of information relating to the issue; and
  - (iv) Signature of a party having Standing.
- (c) The Wyoming Department of Agriculture shall notify persons named in the request for Mediation to determine whether these persons are interested in participating. Persons interested in participating must complete an "Agreement to Mediate" form, prepared by the Board which refers them to these rules for further information regarding the Mediation process. Persons not interested in Mediation will be asked to complete a Mediation waiver form, indicating that they are not interested in participating at this time.

#### Section 8. Mediation Assistance.

- (a) Under W.S. 11-41-105(e) upon request for agricultural credit assistance, the Board may refer the borrower to the director of the Extension Service in the College of Agriculture at the University of Wyoming. The Extension Service shall assist the borrower in preparing financial information for the initial Mediation meeting.
- (b) Under W.S. 11-41-105(e) the Board may also refer the Farmer or Rancher to a list of other financial analysts skilled in assisting with farm debt matters. The Board shall require persons applying to be placed on this list to outline;
  - (i) Name and address of applicant;

- (ii) Training and number of years experience in financial analysis skills;
- (iii) Training concerning farm financing and the farm credit system; and
- (iv) Fees charged for rendering of financial analysis.

(c) Under W.S. 11-41-104(b) the Board may employ and remove for cause administrative, technical and other personnel on matters requiring technical or scientific expertise, and upon request from both Parties, the Board may recommend that a qualified Technical Review Team (TRT) be appointed to gather appropriate data or evidence to determine the facts. The Board designates the duty of selecting TRT members to the Wyoming Department of Agriculture. The team members would be selected by the Wyoming Department of Agriculture using the following criteria:

- (i) Each member must be technically qualified and experienced in the subject matter of the dispute; and
  - (ii) Each member must be acceptable to both Parties in the disputes.
- (d) Compensation for the TRT members will be in accordance with Section 13(a)(b)(c)(d).
- (e) After appropriate field trips or fact finding meetings, the TRT will prepare a report on the technical and scientific aspects of the matter in dispute. This report will be furnished to both Parties and to the mediator to be used as he/she deems necessary in the Mediation efforts.

#### Section 9. Selection of a Mediator and Preparation of Agreement as to Mediation Arrangements.

(a) Under W.S. 11-41-108(e) The Board shall provide the Parties with the names, mailing addresses, and qualifications background information received under Section 7 of mediators, located in the geographical area in which the Agricultural property or Farmer is located.

(b) Selection of Mediator. The Parties shall notify the Board, by certified letter within seven (7) days of the receipt of the list of mediators, of their selection. The Board shall treat the silence of the Parties as a request for assistance in selecting a mediator. Upon the written request of the Parties or following the expiration of the seven (7) day period, the Board shall designate a mediator. All Parties shall be given notice of the mediator selected by the Board and any Party shall have the right, by written request, to direct the Board to select a different mediator prior to the initial Mediation meeting.

(c) Every mediator shall enter into a written agreement setting forth the terms, conditions, time lines and estimated cost for the Mediation services to be provided. The agreement shall:

- (i) Be signed by the mediator and all Parties to the Mediation process;
- (ii) Unless otherwise specified by a court suspension order under W.S. 11- 41-107, provide that the Mediation process shall terminate sixty (60) days-after the appointment of the mediator, unless extended by unanimous agreement of the Parties;

(iii) Incorporate a statement agreeing to follow the written terms of any mutual agreement arising out of the Mediation process.

(iv) Under W.S. 11-41-108(e) if no Action has been initiated to which the disputing Farmer and Creditor are Parties, the Board shall identify the Parties to any Mediation under this Chapter and shall require all Parties to enter into an agreement to refrain from initiating any Action among the Parties affecting this subject matter of the Mediation for a sixty (60) day period;

(v) If an Action has already commenced, then provide a statement by the Parties that they have obtained a Stipulation to mediate filed in any pending Action and a suspension order signed by a district court judge.

(vi) Include a statement prepared by the mediator, which sets forth the guidelines under which the mediator will conduct the Mediation proceedings; and

(vii) Describe the hourly fees and compensation for travel, per diem and other necessary expenses, to be reviewed by the Board.

#### Section 10. Mediation Proceedings and the Authority of the Mediator.

(a) Mediation proceedings shall be conducted by the mediator at times and locations which are agreed upon by the Parties and the mediator.

(b) The mediator may hold joint or separate meetings with the Parties.

(c) The mediator may request other persons to participate in the Mediation proceedings upon approval of the Parties. Parties may have designees present at Mediation sessions.

(d) The Board may employ a technical expert(s) upon agreement by the Parties in accordance with Section 8 and W.S. 11-41-104(b).

(e) The mediator shall regulate the proceedings to prevent disruptions, and may terminate Mediation sessions in his or her discretion.

(f) Under W.S. 11-41-105(f) The mediator may not compel a settlement.

(g) A Party may withdraw from Mediation at any point in time prior to final agreement or other conclusions of the Mediation proceedings.

(h) A Party or a mediator may withdraw from Mediation at any time if he or she feels that the mediator is unable or unwilling to perform or has a conflict of interest. The Party or mediator shall notify the Board of his or her intent to withdraw. Upon written agreement by the Parties and the Board, the Mediation proceedings may continue with a new mediator.

#### Section 11. Agreement After Mediation.

(a) Interim and final agreements of the Parties, if any, shall be reduced to writing. Under W.S. 11-41-

105(b)(vi) the mediator shall assist in the preparation of the written agreement.

(b) At the conclusion of the Mediation proceedings, the mediator shall provide copies of all written agreements to the Board. Agreements may provide for continued Mediation at a future date. The Parties to a Mediation proceeding are solely responsible for any agreement reached, and for the enforcement of any agreement.

#### Section 12. Code of Ethics for Mediators.

(a) No mediator may provide legal, financial or therapeutic advice to the Parties in a Mediation proceeding. A mediator may not solicit or accept any payment or item of value, either directly or indirectly, in return for making a referral.

(b) In addition to W.S. 11-41-106, Mediators shall keep confidential all information and records obtained in connection with a Mediation proceeding.

(c) With respect to the Parties to the Mediation, no mediator shall:

(i) Offer or deliver services, other than Mediation services on any issue involving these same two Parties, raised in the proceeding for a period of at least six months from the time the last Mediation proceeding was concluded.

(ii) Solicit or accept from any person or entity, either directly or indirectly, anything of value that could reasonably be expected to influence the actions or judgment of the mediator in his or her capacity as a mediator or if it could reasonably be considered to be a reward for any Action or inaction by the mediator in his or her capacity as a mediator.

(iii) Use or attempt to use his or her position as a mediator to gain unlawful benefits, advantages or privileges for himself or herself, or for others.

(d) A mediator shall disclose to the Board and to the Parties to a Mediation proceeding, every potential conflict of interest and every other matter which may affect the mediator's ability to act in a fair, diligent and impartial manner in the proceeding. A mediator shall withdraw from the proceeding if the mediator is unable to act in a fair and impartial manner.

#### Section 13. Mediator Compensation.

(a) Mediators shall be compensated at a rate consistent with the information contained in their background questionnaires and agreed upon by the Parties. The Board shall establish a maximum hourly fee for Mediation services.

(b) Mediators will receive compensation for travel, and per diem, in an amount agreed upon by both Parties, provided the per diem and mileage shall not exceed the amount allowed state employees.

(c) Mediators shall be reimbursed for other necessary expenses agreed to by both Parties and the Board.

(d) Under W.S. 11-41-105(c) the Parties in the Mediation process shall share the costs of Mediation

equally.

(e) Mediators who receive funds in advance shall maintain a trust account for handling all funds received from Mediation. Mediators shall, at the termination of Mediation, file with the Parties and the Board a statement listing the number of hours of Mediation conducted, total charges for Mediation, any compensation for travel or per diem request, and any balance remaining in the trust account. Any balance remaining in the trust account following the termination of Mediation shall be returned to the Parties within (30) thirty days.