

For: State and County Offices

**Environmental Assessments (EA's) and Primary Nesting Season (PNS) Dates
and Haying and Grazing Frequency and Duration**

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

On September 26, 2006, FSA signed a settlement agreement with the National Wildlife Federation (NWF) that required completing the NEPA analysis before modifying PNS dates and haying and grazing frequency and duration.

Some State Offices have published EA's requesting comments as part of the NEPA analysis to modify PNS dates and haying and grazing frequency and duration.

Recommendation of new PNS dates or frequencies in EA's has created the following 3 categories for CRP participants with contracts:

- Category A - CRP-1's approved before the September 26, 2006, NWF Settlement Agreement
- Category B - CRP-1's approved on or after the September 26, 2006, NWF Settlement Agreement
- Category C - CRP-1's approved on or after the date the Finding of No Significant Impact (FONSI) was published.

Note: See Exhibit 1 for a policy table of PNS dates and frequencies for each category.

B Purpose

This notice provides guidance about implementing PNS dates and haying and grazing frequency and duration after issuing FONSI.

Disposal Date	Distribution
January 1, 2011	State Offices; State Offices relay to County Offices and NRCS State Offices

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2 Policy

A Category A

For CRP contracts approved before the September 26, 2006, NWF Settlement Agreement, PNS dates and haying and grazing frequency and duration in effect at the time CRP-1 was approved will continue for the life of the CRP contract. CRP participants may obtain a modified conservation plan with the Category C PNS dates and haying and grazing frequency and duration as provided in the applicable FONSI. See Exhibit 1.

Note: Modified conservation plans must contain Category C provisions.

B Category B

For CRP contracts approved on or after the September 26, 2006, NWF Settlement Agreement, PNS dates and haying and grazing frequency and duration in effect at the time CRP-1 was approved will continue for the life of the CRP contract. CRP participants may obtain a modified conservation plan with the Category C PNS dates and haying and grazing frequency and duration as provided in FONSI. See Exhibit 1.

Note: Modified conservation plans must contain Category C provisions.

C Category C

For CRP contracts approved on or after the date FONSI was published, PNS dates and haying and grazing frequency and duration provided in FONSI will continue for the life of the CRP contract. See Exhibit 1.

D Modifying Conservation Plans

CRP participants electing to modify the conservation plan must modify **both** the Category C PNS dates and Category C haying and grazing frequency and duration as provided in the applicable EA.

Reminder: In addition to the timing of conducting haying and grazing, PNS dates also determine periods of:

- CRP cover nondisturbance
- practice maintenance
- management activities
- periodic mowing
- authorized use
- applying waste products
- research projects.

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2 Policy (Continued)

E Example of Multiple Categories for the Same Farm

A CRP participant has a farm that has three CRP contracts with different approval dates for each contract. All three CRP contracts include managed haying and grazing as part of the conservation plan. The following example shows that the same farm may have 3 different PNS dates and frequencies.

<p>CRP-1, Category A PNS is May 1 - July 15 Frequency is 1 out of 3</p>		<p>CRP-1, Category C PNS is May 15 - July 15 Frequency for haying is 1 out of 5 Frequency for grazing is 1 out of 3</p>
	<p>CRP-1, Category B PNS is May 15 - August 1 Frequency is 1 out of 10</p>	

Note: Category A and Category B may obtain a modified conservation plan to incorporate PNS dates and frequency of the alternative selected in Category C.

3 Action

A County Office Action

County Offices shall:

- read and follow the provisions of this notice
- inform CRP participants that any CRP participant wanting to conduct haying or grazing using PNS dates and haying and grazing frequency and duration other than their current provisions must obtain a modified conservation plan specifying the new PNS dates and haying and grazing frequency and duration before they may begin haying and grazing activity.

B State Office Action

State Offices shall ensure that County Offices follow instructions in this notice.

Managed Haying and Grazing PNS Dates and Frequencies for NWF Settlement Agreement States

CRP-1 Category	PNS Dates	Frequency	
<p>Category A – CRP-1’s approved before September 26, 2006, NWF Settlement Agreement</p>	<ul style="list-style-type: none"> • Use PNS dates in effect before the NWF Settlement Agreement. • Conservation plans may be modified to incorporate PNS dates of Category C. 	<ul style="list-style-type: none"> • For haying, no more frequently than 1 out of every 3 years. • Conservation plans may be modified to incorporate the frequency of the alternative selected in Category C. 	<ul style="list-style-type: none"> • For grazing, no more frequently than 1 out of every 3 years. • Conservation plans may be modified to update to the frequency of the alternative selected in Category C.
<p>Category B – CRP-1’s approved on or after September 26, 2006, NWF Settlement Agreement</p>	<ul style="list-style-type: none"> • Use PNS dates required under the terms of the NWF Settlement Agreement. • Conservation plans may be modified to incorporate PNS dates selected in Category C. 	<ul style="list-style-type: none"> • For haying, no more frequently than: <ul style="list-style-type: none"> • 1 out of every 10 years for the following States: AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, SD, TX, UT, and WY • 1 out of every 10 years (East) and 1 out of every 3 years (West) in the following States: OR and WA. • Conservation plans may be modified to incorporate the frequency of the alternative selected in Category C. 	<ul style="list-style-type: none"> • For grazing, no more frequently than: <ul style="list-style-type: none"> • 1 out of every 5 years in the following States: CO, KS, MT, NE, ND, SD, TX, and WY • 1 out of every 10 years in the following States: AZ, ID, NV, NM, and UT. • 1 out of every 10 years (East) and 1 out of every 3 years (West) in the following States: OR and WA. • Conservation plans may be modified to incorporate the frequency of the alternative selected in Category C.
<p>Category C – CRP-1’s approved on or after the date FONSI was published</p>	<p>Use the dates of the alternative identified in FONSI.</p>	<p>Use haying frequencies identified in FONSI.</p>	<p>Use grazing frequencies identified in FONSI.</p>

Note: NWF Settlement Agreement States are Arizona, California, Colorado, Idaho, Indiana, Kansas, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.