

## 530.420C EQIP Irrigation History Waiver Checklist

### Criteria

This exhibit explains the data and information required by the agency to evaluate whether a waiver to the irrigation history requirement should be approved by the Chief or designee.

The following should be used as a guide to document criteria required for evaluation and justification of a waiver request to the EQIP irrigation history eligibility requirement in 7 CFR Part 1466. Refer to Title 440, Conservation Programs Manual (CPM), Part 530, Subpart R, Section 530.402, "EQIP Eligibility."

**Instructions:** The following checklist will be completed and submitted as supporting documentation, including any additional documentation, as applicable, when submitting the policy waiver through the agency-approved business tools.

Upload the waiver request for review and concurrence by the Deputy Chief for Programs using the "Policy Waiver Request" on the FAPD SharePoint. Supporting documentation associated with the application should be stored electronically in the designated NRCS document management business tool.

If recommended for approval, the Deputy Chief for Programs will forward the waiver request to the Chief for final decision. The applicant will receive written notification of the decision from the Chief.

**Note:** The irrigation history requirement is an eligibility criterion for EQIP. Applicants seeking a waiver of this requirement must meet all eligibility requirements specified in 7 CFR Part 1466 to be considered for funding, including requirements for irrigation-related practices, by either providing documentation of irrigation history or by receiving an irrigation history waiver, or through a drought or practice exception. Refer to 440-CPM-530-R, section 530.402C, "Land Eligibility".

## 530.420C EQIP Irrigation History Waiver Checklist

| Irrigation History Waiver Checklist   |  |                       |            |
|---|--|-----------------------|------------|
| <b>Waiver Requested By:</b><br>(Applicant Name)   |  |                       |            |
| <b>Application Number:</b>  |  | <b>State:</b>         |            |
| <b>Section 1: Basic Waiver Requirements</b>   |  |                       |            |
| Complete this section to verify if the application meets required criteria needed to request an irrigation history waiver. If any response in this section is “no” then application does not meet the basic requirement for an irrigation history waiver. Refer to 440-CPM-530, Subpart D “Processing Applications,” for guidance on notifying the applicant of ineligibility.  |  |                       |            |
| <b>Criteria to Request an Irrigation History Waiver</b>   |  |                       | <b>Yes</b> |
| 1. The Form NRCS-CPA-1200 is complete, signed, dated, and stored electronically.  |  |                       |            |
| 2. Applicant meets all producer eligibility requirements in 7 CFR part 1466. Refer to 440-CPM-530, Subpart C, and Subpart R, Section 530.402.   |  |                       |            |
| 3. Except for irrigation history, the land where irrigation-related practices will be applied meets all land eligibility requirements per 7 CFR Part 1466, Refer to 440-CPM-530-R-530.402.  |  |                       |            |
| 4. Applicant was unable to provide sufficient evidence of irrigation history. Refer to 440-CPM-530-R-530.402C(2).   |  |                       |            |
| 5. Applicant is an Indian Tribe, or applicant self-certified on the NRCS-CPA-1200 as a limited resource and/or socially disadvantaged farmer or rancher.  |  |                       |            |
| 6. Applicant provided NRCS a written request for an irrigation history waiver.  |  |                       |            |
| 7. Applicant cannot meet the irrigation history requirement for reasons beyond their control. Include any information that documents: <ul style="list-style-type: none"> <li>• Known factors that prevented the applicant from irrigating the land.</li> <li>• Actions the applicant could have taken to allow irrigation but did not pursue.</li> <li>• Reasons that explain why lack of irrigation history was beyond control of applicant.</li> </ul>  |  |                       |            |
| 8. Land has been in active agricultural production (cropped, hayed, or grazed) 4 out of the last 6 years:   |  |                       |            |
| Year 1  |  | Agricultural Product: |            |
| Year 2  |  | Agricultural Product: |            |
| Year 3  |  | Agricultural Product: |            |
| Year 4  |  | Agricultural Product: |            |
| Year 5  |  | Agricultural Product: |            |
| Year 6  |  | Agricultural Product: |            |
| 9. The planned irrigation system will address soil quality or erosion resource concerns as part of a sustainable agricultural system, such as establishment of cover crops to ensure a positive trend in the soil condition index as part of the producer’s conservation tillage, conservation crop rotation or organic production systems, or establishment of another sustainable agricultural system identified by the agency.   |  |                       |            |
| 10. The schedule of operations will not, individually or cumulatively, significantly adversely impact available surface or ground water supplies. The impacts upon water supplies may be based on, but not necessarily limited to, the following criteria: <ul style="list-style-type: none"> <li>• For ground water systems, the aquifer must not be declining in elevation or in yield.</li> <li>• The project area has not been subject to water shortages. NRCS may consider whether the project area has been listed as a short-term D2 “Severe Drought” (or higher) or long-term D1 “Moderate Drought” (or higher), as identified on the U.S. Drought Monitor (<a href="http://droughtmonitor.unl.edu/">http://droughtmonitor.unl.edu/</a>).</li> <li>• NRCS also may consider whether the project area has been subject to any other identified water shortages, either natural or imposed, by State or local regulations within the prior full irrigation season. Producers in the area received a relatively normal amount of water for a reasonable amount of the irrigation season.</li> </ul> |  |                       |            |

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| <b>Criteria to Request an Irrigation History Waiver (cont.)</b>  | <b>Yes</b> |
| 11. An environmental review has been conducted using the NRCS-CPA-52, "Environmental Evaluation Worksheet," to document the benefits of the irrigation practices and determine whether significant adverse effects on natural resources or human environment are likely to result from implementation of the proposed irrigation practices. Provide a copy of the NRCS-CPA-52 and a summary of any adverse effects as part of supporting documentation.  |            |
| If all criteria in section 1 are answered "Yes," then proceed to: <ul style="list-style-type: none"> <li>• Section 2, if applicant self-certified as limited resource or socially disadvantaged farmer or rancher.</li> <li>• Section 3, if applicant is an Indian Tribe.</li> </ul>   |            |
| <b>Section 2: Limited Resource or Socially Disadvantaged Farmer or Rancher Criteria</b>  |            |
| Complete this section and provide supporting documentation for all criteria in the designated business tool.   |            |
| <b>Irrigation History Waiver Request -- Documentation Requirements:</b>  | <b>Yes</b> |
| 1. Applicant can demonstrate a legal right to access and use ground and/or surface water for irrigation purposes. For surface water sources, the applicant must also meet one of the following criteria depending upon location: <ol style="list-style-type: none"> <li>For surface water diversions east of the 100th meridian, a legal right to use surface water must be in possession of the applicant. The surface water source would need to be documented as meeting all other legal water rights 8 out of 10 of the last years.</li> <li>For surface water diversions west of the 100th meridian, the surface water source must be shown to have met all State-designated beneficial uses for which legal rights are held 5 out of the last 10 years.</li> </ol> |            |
| 2. Evidence or documentation that demonstrates the applicant had legal rights to use identified water source for purposes of irrigation is provided as supporting documentation.   |            |
| 3. Additional documentation or data that is relevant to providing evidence to address the listed criteria above has been provided as supporting documentation.   |            |
| 4. All above criteria have been answered "Yes" or, if evidence or documentation cannot be provided for any criteria listed above, provide an explanation of the effort made to obtain requested information and provide as supporting documentation.   |            |
| <b>Section 3: Indian Tribe Criteria</b>  |            |
| Complete this section and provide supporting documentation for all criteria in the designated business tool.   |            |
| <b>Irrigation History Waiver Request -- Documentation Requirements:</b>  | <b>Yes</b> |
| 1. The Indian Tribal land has <u>not</u> been designated by the Bureau of Indian Affairs (BIA) "permanently nonassessable" or otherwise identified as permanently non-irrigable lands. NRCS may also consider whether existing irrigation delivery facilities are present or whether the land is considered assessable. Refer to BIA National Irrigation Handbook, Chapter 10, "Land Designation and Assessment," as authorized per 25 CFR Part 171 for applicable definitions and explanation of BIA designations.  |            |
| 2. Investigate and obtain BIA designations and provide explanation of current designations as part of supporting documentation.  |            |
| 3. The Tribe can provide evidence that legal water rights are secured and that for surface waters, established Tribal water rights are such that they would have resulted in full-volume delivery 5 out of the last 10 years. Document or included any evidence provided by the Tribe demonstrating legal water rights for land intended to be supported by irrigation-related practices.  |            |
| 4. Additional documentation or data that is relevant to providing evidence to address the listed criteria above has been provided as supporting documentation.   |            |
| 5. All above criteria have been answered "Yes" or, if evidence or documentation cannot be provided for any criteria listed above, provide an explanation of the effort made to obtain requested information and provide as supporting documentation.   |            |