

401 Water Quality Certification – Federal Requirement

I. Pre-filing Meeting Request

a. Why is this Pre-filing meeting request required?

The U.S Environmental Protection Agency (EPA) published the Final 2023 Clean Water Act Section 401 Water Quality Certification Improvement Rule in the Federal Register on September 27, 2023. It took effect on November 27, 2023. The federal rule requires that all project proponents submit a Pre-filing Request to the certifying authority prior to submitting a Section 401 Water Quality Certification request (Certification Request).

b. How to submit a Pre-filing Meeting Request

To simplify the process, the project proponent only needs to send an email to the Water Quality Certification and Wetland Section at: wqcwetlands@des.sc.gov. Please include in the subject line the following “Pre-filing Meeting Request – County – [project title].” If staff determine that a pre-filing meeting is needed, staff will schedule a meeting with the applicant/agent. Please be prepared to discuss the project and potential water quality impacts. If staff determine that a pre-filing meeting is not needed, the applicant/agent will be notified and a Section 401 Certification Request to the Department may be submitted.

c. Information to be Included in the Pre-filing Meeting Request:

- Project Name and Brief Description
- Project Location
- Waterbody
- Total Acreage of Wetland Impacts Proposed (if applicable)
- Total Linear Feet of Stream Impacts Proposed (if applicable)
- Total Cubic Yards of Excavation Proposed (if applicable)
- Applicant/Agent Contact Information

II. Certification Request

a. How to Submit a Certification Request

The new EPA rule requires a Certification Request to be sent concurrently to the Department of Environmental Services (DES) and the Federal Agency. To send the Certification Request to DES simply use the same address noted above (wqcwetlands@des.sc.gov). Please include in the subject line the following: “Certification Request – Project Title and Federal Permit Number”.

Where the Federal agency is the U.S. Army Corps of Engineers (Corps), Certification Requests should be sent concurrently to the following depending on project location:

Charleston Corps District Office: SAC.RD.Charleston@usave.army.mil Projects in Orangeburg, Dorchester, Bamberg, Barnwell, Allendale, Hampton, Beaufort, Charleston, and Berkeley Counties.

Columbia Corps Field Office: SAC.RD.Columbia@usace.army.mil Projects in York, Chester, Lancaster, Fairfield, Kershaw, Newberry, Richland, Lexington, Saluda, Edgefield, McCormick, and Aiken.

Conway Corps Field Office: SAC.RD.Conway@usace.army.mil Projects in Chesterfield, Marlboro, Dillon, Darlington, Marion, Lee, Florence, Sumter, Clarendon, Williamsburg, and Georgetown.

Greenville Corps Field Office: SAC.RD.Greenville@usace.army.mil Projects in Oconee, Pickens, Spartanburg, Cherokee, Union, Laurens, Anderson, Abbeville, and Greenwood.

b. Information to be included with the Certification Request

To comply with the new EPA Rule as well as DES regulations, the following items need to be included with the Certification Request:

1. A copy of the Federal Permit of License application
2. A copy of the Joint Public Notice (for Corps projects only)
3. Documentation that a Pre-filing Meeting Request was submitted to the certifying authority

III. For more information:

EPA's 401 Rule:

<https://www.epa.gov/cwa-401/final-2023-cwa-section-401-water-quality-certification-improvement-rule>

Charleston District, Corps of Engineers Guidance on The Clean Water Act 401 Certification Rule:

https://www.sac.usace.army.mil/Portals/43/docs/regulatory/publicnotices/SAC_Public_Notice_401_Water_Quality_Certification_CAP_CZM_Process_3_FEB_2021.pdf?ver=77_gcdBSS3TNNAMQAZV0pQ%3d%3d