



401 Certification: Pre-filing Meeting Request Instructions

Southern Ute Indian Tribe

Water Quality & Remediation Division



To request a pre-filing meeting for a future 401 water quality certification request from the Southern Ute Indian Tribe's Water Quality & Remediation Division, please submit an e-mail to wqs@southernute-nsn.gov with the following information:

1. Subject Line: Pre-filing Meeting Request – CWA Section 401 Certification - [insert permit/license number] - [insert project title]
2. In the body of the email, include:
 1. A statement that it is “a request for CWA section 401 certification pre-filing meeting”;
 2. The name of the project proponent and appropriate point of contact;
 3. The planned project location¹ (including identification of waters of the United States into which any potential discharges would occur);
 4. The permit type the proponent will be applying for;
 5. A list of any other necessary licenses/permits (e.g., state permits, other Federal permits, etc.) or relevant plans (e.g., field wide or site specific Stormwater Pollution Prevention Plan, Spill Prevention and Response Plans);
 6. A brief description of anticipated project construction and operation activities; and
 7. The anticipated start work date and project timeline/phasing.

The project proponent should maintain a copy of the submitted pre-filing meeting request because it is a required component of the request for certification. See 40 CFR 121.5(b)(7).

Effective under the Environmental Protection Agency's [2023 Clean Water Act Section 401 Water Quality Certification Improvement Rule](#) (“Improvement Rule”) project proponents must request a pre-filing meeting from a certifying authority at least 30 days before requesting certification unless the certifying authority waives or shortens this requirement.

The Tribe's Water Quality & Remediation Division (WQRD) pre-filing process:

1. If the WQRD does not respond within 30 days, the project proponent may submit a request for certification.
2. If the WQRD responds within 30 days and informs the project proponent that it does not plan to schedule a pre-filing meeting, the project proponent may submit a request for certification.
3. If the WQRD responds within 30 days and requests a pre-filing meeting, the project proponent should coordinate with the WQRD to schedule the pre-filing meeting.

¹ Please include a map of the project location and any readily available geospatial information that characterizes land ownership, site conditions and/or landscape features for the entire project and all waterbody (perennial, intermittent, ephemeral, wetland) locations as a shapefile or kmz file. This information assists the WQRD confirm if all relevant waterbodies have been included and if an additional 401 certification from the EPA may be necessary.



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Note: The project proponent is **not** required to wait until after the pre-filing meeting to submit a request for certification if the pre-filing meeting cannot be scheduled within 30 days of the submission of the pre-filing meeting request; however, it may be appropriate for the project proponent to wait to submit the request for certification until after confirming the request for certification requirements (consistent with 40 CFR 121.5) and the certifying authority's applicable submission procedures during the pre-filing meeting.

Pre-filing meeting tips:

1. **Participants:** Participants in the pre-filing meeting include the project proponent (*i.e.*, project team and/or representative) and certifying authority (*i.e.*, WQRD). If applicable, the WQRD recommends that the Federal permitting agency and the Environmental Protection Agency be invited to attend the pre-filing meeting to answer any questions about the neighboring jurisdiction step with 401 certifications and Federal license or permit review process and timelines.
2. **Meeting Overview:** The WQRD recommends that project proponents who attend a pre-filing meeting prepare to discuss the water quality-related impacts from the proposed project activity. Additional discussion/correspondence may include timing and ensuring that all the required contents of a request for certification, consistent with 40 CFR 121.5, are submitted in accordance with the WQRD's applicable submission procedures. For example, the project proponent gives an overview of the project (including, but not limited to, visuals to show location, description of best management practices/mitigation measures for project work in waters/wetlands, projected work schedule/timeline, other important visuals for the project proposal, and any other necessary permits/plans/consultations/authorizations that are required for the project). The WQRD and other Participants may ask questions (*e.g.*, what kind of baseline data has been collected already, such as wetland delineations and stream surveys; what the desired project construction timeline is; the status of other authorizations/permit requirements/consultation; if existing stormwater or spill plans are available and should be included within the certification request). The WQRD may also request additional information to help inform its evaluation of the project.
3. **Next Steps:** The EPA, project proponent, and federal agency (as applicable) should discuss and identify tasks/timelines for submitting information and other next steps toward the project proponent's submittal of the request for certification.

For more information regarding the EPA's Final 2023 Improvement Rule: www.epa.gov/cwa-401/final-rule-clean-water-actsecon-401-certification-rule. Please refer to [Section IV.B](#) of the preamble for the Final 2023 Rule for more information regarding the EPA's recommendations for implementation of the pre-filing meeting process.