

PRO 400-ab6: Legal Considerations

Describes Notice of Action Taken (SEPA) & Statute of Limitations Notice (NEPA)

Effective Jun. 2012

See also: EM Chapter [400](#)

Start procedure: ROD or FONSI final or Agency takes action on project after FEIS completed.

End procedure: Legal notice published, recorded in project file, and comment period is complete.

Actor	Action
Region/Modal Project Office	<ol style="list-style-type: none"> 1. Meets with management to determine likelihood of lawsuit and need for publishing legal notice to limit comment period. <ul style="list-style-type: none"> • See EM Chapter 400 for criteria. • If management determines that a legal notice shall be published then: <ul style="list-style-type: none"> ○ Publish a Notice of Action Taken (NAT) For SEPA projects. Complete Steps 2-5 below. ○ Publish a Statute of Limitations Notice (SOL Notice) for NEPA projects. Complete Steps 6-11 below.
Region/Modal Project Office	<ol style="list-style-type: none"> 2. For SEPA projects completes the Notice of Action Taken (NAT) form <ul style="list-style-type: none"> • NAT Form provided in WAC 197-11-990
Region/Modal Project Office	<ol style="list-style-type: none"> 3. Publishes the NAT <ul style="list-style-type: none"> • Publishing NAT on the same day of each week for two consecutive weeks in a newspaper in the project area. • File the NAT with Ecology at its main office in Olympia prior to the date of the last newspaper publication. • Notify all adjacent property owners by: <ul style="list-style-type: none"> ○ Letter (sent by U.S. mail, first class) ○ Posting a conspicuous notice on the property • ESO Compliance Program can help prepare the SEPA NAT distribution list.
Region/Modal Project Office	<p>Includes a copy of the NAT in the project file.</p>

Actor	Action
Region/Modal Project Office	<p>4. Tracks the 21 day comment period. The comment period starts on the day the second newspaper notice is published.</p> <ul style="list-style-type: none"> • Stop here for SEPA Projects.
Region/Modal Project Office	<p>5. For NEPA projects: Meets with Federal Lead Agency to determine need for filing Statute of Limitation (SOL) Notice.</p> <ul style="list-style-type: none"> • Federal Lead Agency makes the determination and directs the Project Office to proceed. See Chapter 400 for criteria.
Region/Modal Project Office	<p>6. Prepares SOL notice for Federal Lead Agency. The notice must:</p> <ul style="list-style-type: none"> • Describe the project and location. • Clearly state that the proposed action is final and there is a 150 day comment period. • List all of the Federal agencies taking the action. • Specify that claims will be barred at the end of the 150 day comment period. • Comply with Federal Register technical requirements. See FHWA guidance. • A SOL Sample Template is available in Appendix D of the FHWA Guidance for MAP-21. • Work with Federal Lead Agency staff to ensure text is appropriate and adequate. (This will be the Division Office for FHWA).
Federal Lead Agency	<p>7. Arranges for publication of the SOL Notice in the Federal Register.</p> <ul style="list-style-type: none"> • Follows the same process used for authorization and publication of the SOL Notice of Intent under NEPA. • FHWA pays for the cost of publishing the SOL Notice. Use the billing code 4910-RY. Other Federal Agencies may not pay for publication, check with your project contact.
Federal Lead Agency.	<p>8. Informs the Region/Modal Project Office that the SOL Notice has been published</p>
Region/Modal Project Office	<p>9. Gets a copy of the SOL Notice from the Federal Register and includes it in the project file.</p>
Region/Modal Project Office	<p>10. Tracks the 150 day comment period (Section 1308 of MAP-21 reduced the comment period from 180 to 150 days).</p>