Electronic Protests

Protest Module as the Sole CBP-Commercial Environment (ACE)

Notice Announcing the Automated
U.S. Customs and Border Protection

Security

SUMMARY:

ACE will replace ACS as the electronic data interchange system authorized for protest filing. Upon the effective date of this notice, ACE will replace ACS as the electronic data interchange system authorized for protest filing.

SUPPLEMENTARY INFORMATION:

Background

Statutory Authority

Section 514 of the Tariff Act of 1930, as amended (19 U.S.C. 1514), provides that certain decisions made by CBP can be protested within 180 days of the date of liquidation, i.e., the date on which CBP’s decision becomes final. Section 645 of Subtitle B of Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, December 8, 1993), commonly known as the Customs Modernization Act, or Mod Act, amended section 514(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1514(c)(1)) to permit the transmission of such protests to CBP electronically pursuant to an electronic data interchange system.

Current Regulations

The CBP regulations governing protests are found in part 174 of Title 19 of the Code of Federal Regulations (19 CFR part 174).

On January 14, 2011, CBP published a Final Rule in the Federal Register (76 FR 2573) making technical corrections to part 174 and related provisions in Title 19 of the Code of Federal Regulations. The rule amended section 174.12(b) to conform to section 514(c)(1) of the Tariff Act of 1930, allowing a protest to be transmitted electronically, using the electronic data interchange system authorized by CBP for that purpose.

Current, CBP accepts electronic protests submitted through the Automated Broker Interface (ABI) to the Automated Commercial System (ACS), the electronic data interchange system currently authorized by CBP for this purpose.

Transition From ACS to ACE

In an effort to modernize the business processes essential to securing U.S. borders, facilitating the flow of legitimate shipments, and targeting illicit goods pursuant to the Mod Act and the Security and Accountability for Every (SAFE) Port Act of 2006 (Pub. L. 109–347, 120 Stat. 1884), CBP developed the Automated Commercial Environment (ACE) to eventually replace ACS. Over the last several years, CBP has tested ACE and provided significant public outreach to ensure that the trade community is fully aware of the transition from ACS to ACE. CBP is now transitioning electronic protest filing from ACS to ACE. Upon the effective date of this notice, ACE will replace ACS as the electronic data interchange system authorized for protest filing.

ACE Protest Module as the Sole CBP-Authorized Method for the Filing of Electronic Protests

This notice announces that the ACE Protest Module will be the sole CBP-authorized method for filing electronic protests. Filers who intend to submit a protest electronically must use the ACE Protest Module. The ACE Protest Module is an internet-based processing module which allows a filer to submit an electronic protest to ACE for processing by CBP. Protest filings will no longer be accepted in ACS. This transition has no effect on filers who intend to submit their protest in paper form, as specified in 19 CFR part 174.

ESTIMATE OF RESPONDENT BURDEN

[Note: Total burden is annualized over the 3-year clearance period]

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<th>Instrument</th>
<th>Number of respondents</th>
<th>Average number of responses per respondent per year</th>
<th>Total number of responses</th>
<th>Hours per response</th>
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DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service


Receipt of an Application for an Incidental Take Permit for Karner Blue Butterfly, From the Slack Chemical Company, and Availability of Proposed Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability, receipt of application.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of an application for an Incidental Take Permit (ITP) and a proposed Habitat Conservation Plan (HCP) from the Slack Chemical Company for public review and comment. We received the permit application from the Slack Chemical Company for incidental take of the endangered Karner blue butterfly resulting from the construction of a gravel access road, as well as from proposed mitigation activities over the next 10 years. Our preliminary determination is that the proposed HCP qualifies as low-effect in accordance with our Handbook for Habitat Conservation Planning and Incidental Taking Permitting Process. To make this determination, we used our Low-Effect HCP Screening Form/Environmental Action Statement (EAS), the preliminary version of which is also available for review.

We provide this notice to (1) seek public comments on the proposed HCP and application; (2) seek public comments on our preliminary determination that the HCP qualifies as low-effect and is therefore eligible for a categorical exclusion under the National Environmental Policy Act (NEPA); and (3) advise other Federal and State agencies, affected Tribes, and the public of our intent to issue an ITP.

DATES: To ensure consideration, we must receive your written comments by August 29, 2016.

ADDRESSES: Reviewing documents: You may obtain copies of the proposed HCP and preliminary EAS for review by any of the following methods:

In-person: Copies will be available for public review during regular business hours at the New York Field Office (see FOR FURTHER INFORMATION CONTACT);
U.S. mail: You may request copies by sending a letter to the New York Field Office (see FOR FURTHER INFORMATION CONTACT); or
Telephone: Those who do not have access to the Web site or cannot visit our office may request copies by telephone at 607–753–9334.

Submitting comments: You may submit written comments by any one of the following methods:
Email: FW5ES_NYFO@fws.gov. Please put Slack Chemical HCP in the subject line; or
U.S. mail: Noelle Rayman-Metcalf (see FOR FURTHER INFORMATION CONTACT).

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: We received an application from the Slack Chemical Company for an ITP for take of the federally listed endangered Karner blue butterfly (Lycaeides melissa samuelis) resulting from the construction of a gravel access road, as well as from proposed mitigation activities. To minimize and mitigate for the incidental take, the Slack Chemical Company will implement a conservation program as described in its proposed HCP. We prepared a preliminary EAS to comply with NEPA. The Service will evaluate whether the proposed action, issuance of an ITP to the Slack Chemical Company, is adequate to support a categorical exclusion. We are requesting comments on the proposed HCP and our preliminary determination that the plan qualifies as low-effect under NEPA.

Background

Section 9 of the Act (16 U.S.C. 1531 et seq.) and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the Act as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the Act, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species, respectively, are found in the Code of Federal Regulations (October 1, 2006, 50 CFR 17.22; October 1, 2001, 50 CFR 17.32).

Proposed Project

Slack Chemical Company is seeking a permit for the incidental take of the Karner blue butterfly for a term of 10 years. Incidental take of this species will occur in an approximate 0.10-acre area within a National Grid right-of-way (ROW). Slack Chemical Company proposes to construct a gravel access road through the ROW to access approximately 8 acres for construction of a parking lot for their trucking fleet and a building. The project is located in Grande Industrial Park, Saratoga Springs, Saratoga County, New York. An additional 4.81 acres of temporary impacts to enhance Karner blue butterfly habitat will occur due to periodic mowing.

Proposed covered activities include the new construction of a gravel access road, as well as periodic mowing of occupied habitat of two existing New York State Department of Environmental Conservation management areas, and one National Grid easement area, as well as the seeding of wild blue lupine and other nectar species within a 0.10 acre patch in National Grid’s ROW. The HCP’s proposed conservation strategy is designed to minimize and mitigate the impacts of covered activities on the covered species. The biological goal is to complement the existing conservation efforts in New York State for the butterfly.

The proposed action consists of the issuance of an ITP and implementation of the proposed HCP. One alternative to the proposed action was considered in the HCP: No action (i.e., operation of the project without an ITP and without avoidance, minimization, or mitigation of Karner blue butterfly impacts). This alternative was deemed not practicable by Slack Chemical Company because the project would not have the important protections of the ITP and would not have the conservation benefits proposed by the Slack Chemical Company.

National Environmental Policy Act

We have made a preliminary determination that the Slack Chemical Company’s proposed HCP, including proposed minimization and mitigation measures, will have a minor or negligible effect on the species covered in the plan, and that the plan qualifies

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