

## Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph 34(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in NEPA.

Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

#### § 165.822 [Removed]

2. Remove § 165.822.

Dated: December 10, 2003.

**W.W. Briggs,**

*Commander, U.S. Coast Guard, Captain of the Port, Pittsburgh.*

[FR Doc. 04–387 Filed 1–8–04; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 122 and 123

[FRL–7608–5]

### National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Wastewater Treatment Discharges During Wet Weather Conditions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of comment period.

**SUMMARY:** On November 7, 2003, EPA published for public comment a proposed policy regarding NPDES permit requirements for treatment plants in publicly owned treatment works (POTWs) under peak wet weather flow conditions. The original comment period was to expire on January 9, 2004; today’s action extends the comment period to February 9, 2004.

**DATES:** Written comments on this proposed policy must be received by EPA or postmarked by February 9, 2004.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** If you have questions, contact Kevin Weiss (e-mail at [weiss.kevin@epa.gov](mailto:weiss.kevin@epa.gov) or phone at (202) 564–0742) at Office of Wastewater Management, United States Environmental Protection Agency, (Mailcode 4203M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

This document extends the public comment period established in the **Federal Register** issued on November 7, 2003 (68 FR 63043). In that document, EPA requested comment on a proposed policy regarding NPDES permit requirements for treatment plants in publicly owned treatment works (POTWs) under peak wet weather flow conditions. EPA is extending the comment period, which was set to end on January 9, 2004 to February 9, 2004.

##### A. How Can I Get Copies of This Document and Other Related Information?

###### 1. Docket

EPA has established an official public docket for this action under Docket ID No. OW–2003–0025. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is

(202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. You may copy 266 pages per day free of charge. Beginning with page 267, you will be charged \$0.15 per page plus an administrative fee of \$25.00.

###### 2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA’s electronic public docket. EPA’s policy is that copyrighted material will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA’s electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA’s electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.A.1. EPA intends to work toward providing electronic access to all of the publicly available docket materials through EPA’s electronic public docket.

For public commenters, it is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA’s electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in

EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102 (May 31, 2002).

#### *B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. Late comments may be considered if time permits.

##### 1. Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit

comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. OW-2003-0025. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *OW-Docket@epa.gov*, Attention Docket ID No. OW-2003-0025. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

##### 2. By Mail

Send an original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mailcode 4101T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OW-2003-0025.

##### 3. By Hand Delivery or Courier

Deliver your comments to: EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OW-2003-0025. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.A.1.

#### *C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You should send information that you consider to be CBI

in one of two ways: (1) By U.S. Mail to: Kevin Weiss, Office of Wastewater Management, U.S. Environmental Protection Agency (Mailcode 4203M), 1200 Pennsylvania Ave., NW., Washington, DC 20460—Attention Docket ID No. OW-2003-0025; or (2) By courier or delivery to: Kevin Weiss, Office of Wastewater Management, U.S. Environmental Protection Agency, EPA East Building (Room 7334), 1301 Constitution Ave., NW., Washington, DC 20004—Attention Docket ID No. OW-2003-0025. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### *D. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It

would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

Dated: January 6, 2004.

**Benjamin H. Grumbles,**

Acting Assistant Administrator, Office of Water.

[FR Doc. 04-553 Filed 1-8-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AG09

#### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Three Plants From the Mariana Islands and Guam

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of the reopening of the comment period on the proposed endangered status for three plants (no common names), *Nesogenes rotensis*, *Osmoxylon mariannense*, and *Tabernaemontana rotensis*, to allow peer reviewers and all interested parties to submit comments on the proposal. Comments already submitted on the June 1, 2000, proposed rule need not be resubmitted as they will be fully considered in the final determination.

**DATES:** Comments from all interested parties must be received by January 26, 2004.

**ADDRESSES:** Comments and materials concerning the proposal should be sent to the Acting Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, HI 96850. For further instructions on commenting, refer to the Public Comments Solicited section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Gina Schultz, Acting Field Supervisor, at the above address (telephone 808-792-9400; facsimile 808-792-9580).

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 1, 2000, we published a proposed rule to list *Nesogenes rotensis*, *Osmoxylon mariannense*, and *Tabernaemontana rotensis* as

endangered species (65 FR 35025). At the time of the proposed listing, we also proposed that designation of critical habitat for these three species was prudent.

*Nesogenes rotensis*, *Osmoxylon mariannense*, and *Tabernaemontana rotensis* all occur on the island of Rota in the Commonwealth of Northern Mariana Islands (CNMI); only *Tabernaemontana rotensis* is found in the United States Territory of Guam. On Rota, *Osmoxylon mariannense* and *Tabernaemontana rotensis* occur on private lands; *Nesogenes rotensis* occurs on public park land (Poña Point Fishing Cliff) owned by the CNMI under jurisdiction of the Department of Lands and Natural Resources. On Guam, *Tabernaemontana rotensis* occurs on private and Federal lands (Andersen Air Force Base). Currently, there are at least 250 individuals of *Tabernaemontana rotensis* known on Guam and at least 8 individuals on Rota. Only 80 individuals of *Nesogenes rotensis* and 8 individuals of *Osmoxylon mariannense* occur on Rota. The three plant species and their habitats have been affected or are now threatened by one or more of the following: habitat degradation or destruction by feral deer and pigs; competition for space, light, water, and nutrients with introduced vegetation; road construction and maintenance activities; recreational activities; natural disasters or random environmental events; fire; vandalism; development of agricultural homesteads; resorts and golf courses; limited reproductive vigor; and potential insect, mouse, or rat predation.

In our June 1, 2000, proposed rule and associated notifications, we requested that all interested parties submit comments, data, or other information that might contribute to the development of a final rule. A 60-day comment period closed on July 31, 2000. Appropriate CNMI and Government of Guam agencies, Federal agencies and other interested parties were contacted and requested to comment. A legal notice announcing the publication of the listing proposal was published in the Marianas Variety newspaper on June 16, 2000 and the Pacific Daily News on June 23, 2000. During this period we received one request for a public hearing from the CNMI Department of Fish and Wildlife. On October 30, 2000, we gave notice in the **Federal Register** (65 FR 64649) and the Marianas Variety of the public hearing to be held on the island of Rota and reopened the public comment period until November 29, 2000. On November 16, 2000, we held a public hearing at the Rota Resort, Rota.

Our final listing decision for *Nesogenes rotensis*, *Osmoxylon mariannense*, and *Tabernaemontana rotensis* was deferred due to lack of resources because the Service's Pacific Islands Office (where the proposed listing was initiated) staff were under Federal court-orders to designate critical habitat for 255 Hawaiian plants and four Hawaiian invertebrates. Pursuant to a settlement agreement approved by the United States District Court for the District of Hawaii on August 21, 2002, the Service must make a final decision on this proposal by April 1, 2004, (*Center for Biological Diversity v. Norton*, Civil No. 99-00603 (D. Haw.)).

Comments already submitted on the June 1, 2000, proposed rule need not be resubmitted as they will be fully considered in the final determination.

#### Public Comments Solicited

When we published the proposed rule, we solicited scientific and technical peer review from three appropriate and independent specialists—biologists with expertise in the fields of botany or Pacific Islands ecology. We did not receive any comments from these reviewers during the original comment period. We believe that because 3 years have passed since publication of the proposed rule, that additional review is warranted at this time. In order to address any additional comments received in response to reopening the comment period and to meet the August 21, 2002, court order to submit to the **Federal Register** a final listing decision for these three plants no later than April 1, 2004, we are reopening the comment period until the date specified in **DATES**. The reopening of the comment period gives additional time for all interested parties to consider the proposed rule's information and submit comments on the proposal. We seek comments especially concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these species;
- (2) The location of any additional populations of these species and reasons why any habitat should or should not be designated as critical habitat;
- (3) Additional information on the range, distribution, and population size of these species; and
- (4) Current or planned activities in the subject area and their possible impacts on these species.

If you wish to comment, you may submit your comments and materials concerning the proposal by any of the following methods:

- (1) You may submit written comments and information to the Acting Field