

**List of Subjects****40 CFR Part 9**

Environmental protection, Reporting and recordkeeping requirements.

**40 CFR Parts 122 and 123**

Administrative practice and procedure, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

**40 CFR Part 412**

Feedlots, Livestock, Waste treatment and disposal, Water pollution control.

Dated: December 15, 2002.

**Christine Todd Whitman,**  
*Administrator.*

For the reasons set out in the preamble title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT**

1. The authority for part 9 continues to read as follows:

**Authority:** 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding entries in numerical order under the indicated heading and a new heading and entries to read as follows:

**§ 9.1 OMB approvals under the Paperwork Reduction Act.**

\* \* \* \* \*

40 CFR citation	OMB control No.
* * * * *	
<b>EPA Administered Permit Programs: The National Pollutant Discharge Elimination System</b>	
* * * * *	
122.21(f) .....	2040–0250
122.23(i) .....	2040–0250
* * * * *	
122.28(b) .....	2040–0250
* * * * *	
122.42(e) .....	2040–0250
* * * * *	
<b>Feedlots Point Source Category</b>	
412.31–412.37 .....	2040–0250
412.41–412.47 .....	2040–0250

**PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

1. The authority citation for part 122 continues to read as follows:

**Authority:** The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Amend § 122.21 by adding a sentence to the end of paragraph (a)(1) and revising paragraph (i)(1) to read as follows:

**§ 122.21 Application for a permit (applicable to State programs, see § 123.25).**

(a) \* \* \*  
(1) \* \* \* All concentrated animal feeding operations have a duty to seek coverage under an NPDES permit, as described in § 122.23(d).

\* \* \* \* \*  
(i) \* \* \*  
(1) For concentrated animal feeding operations:  
(i) The name of the owner or operator;  
(ii) The facility location and mailing addresses;  
(iii) Latitude and longitude of the production area (entrance to production area);

(iv) A topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of paragraph (f)(7) of this section;

(v) Specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

(vi) The type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage(tons/gallons);

(vii) The total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;

(viii) Estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);

(ix) Estimated amounts of manure, litter and process wastewater transferred to other persons per year (tons/gallons); and

(x) For CAFOs that must seek coverage under a permit after December 31, 2006, certification that a nutrient

management plan has been completed and will be implemented upon the date of permit coverage.

\* \* \* \* \*

3. Section 122.23 is revised to read as follows:

**§ 122.23 Concentrated animal feeding operations (applicable to State NPDES programs, see § 123.25).**

(a) *Permit requirement for CAFOs.* Concentrated animal feeding operations, as defined in paragraph (b) of this section, are point sources that require NPDES permits for discharges or potential discharges. Once an operation is defined as a CAFO, the NPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

(b) Definitions applicable to this section:

(1) *Animal feeding operation* (“AFO”) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

(i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and

(ii) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) *Concentrated animal feeding operation* (“CAFO”) means an AFO that is defined as a Large CAFO or as a Medium CAFO by the terms of this paragraph, or that is designated as a CAFO in accordance with paragraph (c) of this section. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

(3) The term *land application area* means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater from the production area is or may be applied.

(4) *Large concentrated animal feeding operation* (“Large CAFO”). An AFO is defined as a Large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(i) 700 mature dairy cows, whether milked or dry;

(ii) 1,000 veal calves;

(iii) 1,000 cattle other than mature dairy cows or veal calves. Cattle