

**27—40.4 (207) Permanent regulatory program and exemption for coal extraction incidental to the extraction of other minerals.** The following is incorporated by reference: 30 CFR Part 701 and 30 CFR Part 702, as in effect on July 1, 2010, with the following exceptions:

**40.4(1)** None of the general word substitutions at rule 27—40.1(17A,207) apply to the definitions of “Permit,” “Permittee,” and “State program” at 30 CFR 701.5.

**40.4(2)** Delete from 30 CFR 701.5 the definitions “Agricultural activities,” “Alluvial valley floor,” “Arid or semiarid area,” “Essential hydrologic functions,” “Farming,” “Federal program,” “Complete federal program,” “Partial federal program,” “Flood irrigation,” “Materially damage the quantity or quality of waters,” “Special bituminous coal mines,” “Subirrigation,” “Undeveloped rangeland,” and “Upland areas.”

**40.4(3)** Delete from the last sentence in the definition of “Permittee” in 30 CFR 701.5 the words “section 523 of the Act” and insert the words “Iowa Code section 207.20”.

In 30 CFR 701.5, delete from the definition of “Significant imminent environmental harm to land, air or water resources” at (b)(2), the words “section 521(a)(3) of the Act” and insert the words “Iowa Code section 207.14, subsection 2”.

**40.4(4)** Delete 30 CFR 701.1, 701.3, 701.4, and 701.11(c).

**40.4(5)** Delete references to “Subchapter B” and “Subchapter K” at 30 CFR 701.11(d) and (e) and substitute in lieu thereof “Part 1B” and “Part 6”, respectively.

**40.4(6)** Delete 30 CFR 702.1 and 702.10.

**40.4(7)** Delete 30 CFR 702.11(f) and insert in lieu thereof the following:

(f) Administrative review. (1) Any adversely affected person may request administrative review of a determination under paragraph (e) of this section within 30 days of notification of such determination in accordance with Part 9 of these rules.

(2) A petition for administrative review filed under Part 9 of these rules shall not suspend the effect of a determination under paragraph (e) of this section.

**40.4(8)** Delete 30 CFR 702.17(c)(2) and (3) and insert in lieu thereof the following:

(2) Any adversely affected person may request administrative review of a decision whether to revoke an exemption within 30 days of the notification of such a decision in accordance with the procedures of Part 9 of these rules.

(3) A petition for administrative review filed under Part 9 of these rules shall not suspend the effect of a decision whether to revoke an exemption.

**40.4(9)** Reserved.

**40.4(10)** Add to 30 CFR 701.5 the definition:

“Full water year” means at a minimum, the nine-month period from March through November.

**40.4(11)** Delete the definition for “Violation, failure or refusal” at 30 CFR 701.5 and insert in lieu thereof the following:

“Violation, failure, or refusal” means—

(1) A violation of a condition of an approved permit pursuant to the Iowa program or an enforcement action pursuant to Iowa Code section 207.14, or

(2) A failure or refusal to comply with any order issued under Iowa Code section 207.14 or any order incorporated in a final decision issued by the administrator, except an order incorporated in a decision issued under subrule 40.74(7) or rule 27—40.7(207).