§ 19-0107. Definitions.

When used in this article:

1. "Person" means any individual, public or private corporation, political subdivision, agency, board, department or bureau of the state, municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

2. "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, noise or any combination thereof.

3. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in quantities, of characteristics and of a duration which are injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout the state or throughout such areas of the state as shall be affected thereby; excluding however all conditions subject to the requirements of the Labor Law and Industrial Code.

4. "Air contamination" means the presence in the outdoor atmosphere of one or more air contaminants which contribute or which are likely to contribute to a condition of air pollution.

5. "Air contamination source" means any source at, from or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at or on which such source is located or the facility, equipment or other property by which the emission is caused or from which the emission comes. Without limiting the generality of the foregoing, this term includes all types of commercial and industrial plants and works, heating and power plants and stations, shops and stores; buildings and other structures of all types, including single and multiple family residences, apartment houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings; automobiles, trucks,

tractors, buses and other motor vehicles (hereinafter called "motor vehicles"); garages; vending and service locations and stations; railroad locomotives; ships, boats and other waterborne craft; aircraft; portable fuel-burning equipment; incinerators of all types, indoor and outdoor; and refuse dumps and piles.

6. "Air cleaning installation" means any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.

7. "Area of the state" means any county, city, town, village, or other geographical area of the state as may be designated by the department.

8. "The Act" means the Federal Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended by Public Law 101-549, November fifteenth, nineteen hundred ninety.

9. "Administrator" means the administrator of the United States environmental protection agency.

10. "Affected source" or "affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the Act.

11. "Clean alternative fuels" means fuels, for use in motor vehicles which meet the requirements of section 7511a(c)(4) of the Act.

12. "Clean fuel vehicle" means a vehicle in a class or category of vehicles which has been certified to meet, for any model year, the clean fuel vehicle standards for clean fuel vehicles specified in this article pursuant to section 7583 of the Act.

13. "Covered fleet" means ten or more motor vehicles which are owned or operated by a single person in an area designated as being a severe ozone non-attainment area by the administrator pursuant to Title I of the Act. In determining the number of motor vehicles owned or operated by a single person for the purposes of this article, all motor vehicles owned or operated, leased or otherwise controlled by such person, by any

person who controls such person, by any person controlled by such person, and by any person under common control with such person shall be treated as owned by such person. The term "covered fleet" shall not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers including demonstration vehicles, motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, or non-road vehicles including farm and construction vehicles.

14. "Covered fleet vehicle" means only a motor vehicle which is (i) in a covered fleet which is centrally fueled or is capable of being centrally fueled and (ii) in a vehicle class for which standards are applicable under this article.

15. "Emission offset" or "offset" means emission reductions or emission reduction credits which are required to be obtained by an air contamination source in order to obtain approval for a permit to construct a new air contamination source, or modify an existing air contamination source, in a non-attainment area pursuant to Title I of the Act.

16. "Emission reduction" or "emission reduction credit" means the actual decrease in emissions of a regulated air contaminant in tons per year. Emission reductions may be created by, but not limited to, product, process, pollution control or housekeeping changes that:

a. reduce emissions beyond that which is required by the Act;

b. are real and actually occur;

c. are quantifiable;

d. are enforceable by the commissioner or the administrator; and

e. are assured for the life of a corresponding increase.

17. "Fugitive emissions" means those emissions of regulated air contaminants which could not reasonably pass through a stack, chimney, vent or other functionally-equivalent openings.

18. "Operating permit" means a permit issued pursuant to section 19-0311 of this article.

19. "Major air contamination source" or "major stationary source" means any stationary source or any group of stationary sources located within a contiguous area and under common control and belonging to a single major industrial grouping that:

a. emits or has the potential to emit one hundred tons per year of any regulated air contaminant; or

b. emits or has the potential to emit ten tons per year of any air contaminant or twenty-five tons per year of any combination of air contaminants listed under section 7412(b) of the Act, including fugitive emissions of such contaminants, or lesser quantities as the administrator may establish pursuant to the Act; or

c. emits or has the potential to emit twenty-five tons per year of volatile organic compounds or oxides of nitrogen, including fugitive emissions of such contaminants if located in an area designated a "severe non-attainment area" pursuant to section 7511 of the Act; or

d. emits or has the potential to emit fifty tons per year of volatile organic compounds or one hundred tons of oxides of nitrogen if located in an ozone transport region pursuant to section 7511(c) of the Act.

Fugitive emissions from a stationary source must be considered in determining whether such stationary source is a major stationary source for permit requirements if the source belongs to one of the categories of stationary sources identified by the administrator in regulation pursuant to section 7602(j) of the Act.

20. "Major industrial grouping" means all activities belonging to the

same major group identified in the Standard Industrial Classification Manual (1987) published by the United States department of commerce.

21. "Potential to emit" means the maximum capacity of a stationary source to emit any regulated air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of such source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the commissioner and the administrator of the United States environmental protection agency provided, however, that physical or operational limitations enforceable by the commissioner shall be treated as part of a source's design, if the commissioner is given such authorization by the administrator.

22. "Regulated air contaminant" means the following:

a. oxides of nitrogen;

b. volatile organic compounds;

c. sulfur dioxide;

d. particulate;

e. carbon monoxide;

f. any class I or II substance subject to a standard promulgated pursuant to section 7671 of the Act;

g. any other air contaminant for which a national ambient air quality standard has been promulgated; or

h. any air contaminant that is regulated under section 7411 or 7412 (b) and (c) of the Act and which the commissioner has listed in regulation. The department may use emergency rulemaking pursuant to

subdivision six of section two hundred two of the state administrative procedure act if necessary, in order to timely list such air contaminants.

23. "State implementation plan" or "SIP" means documents prepared by the department, and submitted to the administrator for approval, which identify actions and programs to be undertaken by the state and its subdivisions to implement the Act.

24. "Stationary source" means any building, structure, facility or installation that emits or may emit any regulated air contaminant.