§ 19-0301. Powers and duties.

1. Consistent with the policy of the state as it is declared in section 19-0103, the department shall have power to:

a. Formulate, adopt and promulgate, amend and repeal codes and rules and regulations for preventing, controlling or prohibiting air pollution in such areas of the state as shall or may be affected by air pollution and to include in any such codes, rules or regulations a general provision for controlling air contamination including but not limited to a requirement that permits to construct and certificates to operate be obtained from the department, provided, however, that in exercising the provisions of this subdivision the department shall conform with the provisions of section 19-0303.

b. Include in any such codes and rules and regulations provisions establishing areas of the state and prescribing for such areas (1) the degree of air pollution or air contamination that may be permitted therein, (2) the extent to which air contaminants may be emitted to the air by any air contamination source, (3) standards for the composition of fuels offered for sale or use of fuels or energy sources in any type or class of air contamination source where the department finds that air contaminants from such type or class or source will probably otherwise be discharged in contravention of applicable emission standards or air quality standards, and (4) requirements and standards for the approval of plans or specifications for air cleaning installations.

c. Promulgate standards for crankcase ventilating systems and air contaminant emission control systems, in accordance with the Vehicle and Traffic Law.

d. Hold public hearings, conduct investigations, compel the attendance of witnesses, receive such pertinent and relevant proof and do such other things as it may deem to be necessary, proper or desirable in order that it may effectively discharge its code, rule and regulation making duties and responsibilities under this article.

e. Except as otherwise required by the Act or regulations promulgated pursuant thereto by the administrator, formulate, adopt, and promulgate, amend and repeal codes, rules and regulations establishing an operating permit program in accordance with section 19-0311 of this title.

f. Delegate to the department of agriculture and markets the authority to test fuels for conformance with applicable standards and to enforce against violations of such standards.

2. It shall be the duty and responsibility of the department to:

a. Prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of any new air pollution recognizing varying requirements for different areas of the state.

b. Encourage voluntary cooperation by all persons in controlling air pollution and air contamination, including but not limited to, educating the public about the health and environmental impacts of idling vehicles, such as air pollution from vehicle emissions, environmental impacts of carbon dioxide emissions and health risks associated with exposure to vehicle emissions. Such education shall, at a minimum, include developing and distributing educational materials and posting such information on the department's website.

c. Encourage the formulation and execution of plans by cooperative groups or associations of counties, cities, towns and villages, industries and others who severally or jointly are or may be the source of air pollution, for the prevention and abatement of pollution.

d. Cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

e. Promulgate standards for the use of fuel or fuel additives for use

in motor vehicles or motor vehicle engines, taking due recognition of federal standards and requirements.

3. a. The department is prohibited from adopting any rule, regulation or standard which would require the use or sale of any type of reformulated gasoline other than the federal reformulated gasoline that is certified by the administrator pursuant to section 7545(k) of the Act for sale and use in states other than California; provided, however, that nothing in this subdivision shall be deemed to limit the authority of the department to adopt a rule, regulation or standard for:

(1) fuel oxygen content or fuel volatility; or

(2) the composition of fuels necessary to implement section 7586 of the Act; or

(3) the composition of fuels necessary to implement section 7507 of the Act if such fuel standard is adopted and implemented regionally pursuant to agreement with any three states sharing a boundary with New York; or

(4) the composition of fuels if the commissioner finds that no other measures would bring about timely attainment or maintenance of a national primary or secondary ambient air quality standard for which New York state must file a state implementation plan pursuant to the Act, or that other existing and technically possible measures are unreasonably costly or impracticable and the commissioner has included such measure in the implementation plan pursuant to section 7410 of the Act.

b. No provision of this subdivision shall be deemed to authorize the use of methyl tertiary butyl ether as an oxygenate in any motor fuel imported into, or sold or offered for sale in this state.

4. Any final order or determination or other final action by the commissioner and the validity or reasonableness of any code, rule or regulation promulgated by the department pursuant to this article shall be subject to review as provided in article seventy-eight of the civil practice law and rules; provided however, the department may establish by regulation a ninety day statute of limitations for review of final permit actions by the commissioner pursuant to section 19-0311 of this title, if required to maintain compliance with the Act.

5. The department shall certify emission reduction credits and establish an emission reduction credit registry. Such registry shall identify emission reduction credits, that are certified by, or used in, New York state. Prior to certifying credits, the department shall publish notice and provide the opportunity for public comment, pursuant to article seventy of this chapter, on the proposed modification of a source's permit to reflect that emission reductions will be certified as emission reduction credits. The department shall provide information regarding the availability of such certified emission reduction credits to any person upon request. The department shall, to the extent consistent with any rules or guidance related to emission offset requirements published by the administrator, adopt rules and regulations to provide for the use of mobile source emission reduction credits as a means of satisfying emission offset requirements pursuant to section 7503(c) of the Act. Such rules and regulations shall include provision for cooperating with the commissioner of motor vehicles pursuant to paragraph one of subdivision (d) of section 301 of the vehicle and traffic law.