§ 17-0905. Proceedings before the commissioner.

1. The commissioner may, on his own motion, investigate or make inquiry, in a manner to be determined by him, as to the condition of any of the waters of the state and as to any alleged act of pollution or omission or failure to comply with any provisions of titles 1 to 11, inclusive, or title 19 of this article.

2. Whenever it shall appear to the commissioner, after investigation, that there has been a violation of any of the provisions of titles 1 to 11, inclusive, or title 19 of this article, he shall give written notice to the alleged violator or violators setting forth any thing or act done or omitted to be done or claimed to be in violation of any such provisions, and requiring that the matters complained of be corrected, or that the alleged violator appear in person or by attorney before the commisisoner or his duly designated representative, at the time and place in said notice specified, and answer the charges complained of.

3. Whenever it shall appear to the commissioner, after investigation, that industrial or other wastes turned or allowed to run into a sewer or sewage disposal system, the content of which ultimately is discharged into the waters of the state, is a cause or contributes to the pollution of the said waters, he shall also notify the person or persons allowed to be responsible for the discharge of the industrial or other wastes into the sewer or sewage disposal system of any alleged violations on his or their part and shall notify him or them to appear at said hearing and answer the charges made against him or them.

4. At least twenty days' notice of such hearing shall be given.

5. Upon the return day of such notice the person so notified shall file with the commissioner a statement setting forth the position of the person so notified, the answer, if any, to the charges made against him, the methods, practices and procedures, if any, which are being taken to prevent polluting discharges into the waters of the state or the sewer or sewage disposal system which ultimately empties into said waters, and any other defenses or information pertinent to the case. Pertinent and

relevant testimony of witnesses shall be received in support of or opposition to said statement.

6. The burden of proof with respect to violations of or liability imposed by titles 1 to 11, inclusive, and title 19 of this article shall, except as otherwise provided in section 71-1941, be upon the department.

7. After due consideration of the written and oral statements, and testimony and arguments filed pursuant to subdivision 5 above, or on default in appearance on said return day, the commissioner may issue and enter such final order or make such final determination as he deems appropriate under the circumstances, and shall notify such person or persons thereof in writing, personally, or by registered mail.