**§ 17-0909. Review by courts.**

1. The provisions of this section shall apply only to titles 1 to 11, inclusive, and title 19 of this article.

2. All orders or determinations of the commissioner or the department shall be subject to review as provided in article 78 of the Civil Practice Law and Rules. Application for such review must be made within sixty days after service in person or by mail of a copy of the determination, or decision upon the attorney of record of the applicant and of each person who has filed a notice of appearance, or to the applicant in person directly if not represented by an attorney.

3. Where a review as provided by article 78 of the Civil Practice Law and Rules is not maintainable, either because the person aggrieved was not a party to the original proceedings, or for any other reason, an order or determination of the former water pollution control board, the former water resources commission, the department or the commissioner may nevertheless be reviewed as hereinafter provided:

a. Application for relief shall be made by special proceeding. The petition shall be verified and shall set forth that the classification of waters, standards of quality and purity thereof, or the finding, determination, decision or order sought to be reviewed is illegal, in whole or in part, and specify the grounds of the illegality; it may be accompanied by affidavits and other written proof, and shall demand the relief to which the petitioner supposes himself entitled, in the alternative or otherwise. Such petition may be made by any person or persons jointly or severally aggrieved by a denial or revocation of a permit or by any decision of the former Water Pollution Control Board, the former Water Resources Commission, the department, or the commissioner or any act of the executive secretary or other agent or person acting in the name of such board, commission, department, or the commissioner whether or not such petitioner is or was a party to the proceedings sought to be reviewed.

b. A proceeding brought under the provisions of this subdivision must

be instituted by service of the petition and notices of application for relief, within four months after publication as herein provided of the classification of waters or the standards of purity and quality of waters, or after the finding, determination, decision or order sought to be reviewed becomes final and binding upon the petitioner or the person whom he represents, either in law or in fact; or with the court's permission within two years, where the petitioner or the person whom he represents, at the time such determination became final and binding upon him, was under the age of twenty-one years, or mentally ill, or imprisoned on a criminal charge or sentenced for a term of less than life.

c. In all other respects the procedure prescribed in subdivision 2 shall be applicable to a review provided by this subdivision.