§ 24-0703. Applications for permits.

1. Any person proposing to conduct or cause to be conducted a regulated activity upon any freshwater wetland shall file an application for a permit with the clerk of the local government having jurisdiction or the department, as the case may be. Review of the application shall be made by the local government or the commissioner, as the case may be, in accordance with applicable law and such rules hereunder as may be adopted by the commissioner. Such application shall include a detailed description of the proposed activity and a map showing the area of freshwater wetland directly affected, with the location of the proposed activity thereon. For any person proposing to conduct or cause to be conducted a regulated activity involving the use of a pipeline upon any freshwater wetland, such application shall also include the name of the insurance company covering such proposed activity, the amount of coverage and what is covered under the plan. The clerk or commissioner shall cause notice of such application to be mailed to all local governments where the proposed activity or any part of it is located.

2. No sooner than thirty days and not later than sixty days after the receipt by a local government of an application, and after notice of application has been published by the applicant in two newspapers having a general circulation in the area, the local government shall hold a public hearing on such application at a suitable location in the local government where the affected wetland is situated unless no notice of objection has been filed or unless the local government finds the activity to be of such a minor nature as not to affect or endanger the balance of systems within the wetlands, in which case the local government may, in the exercise of discretion, dispense with such hearing. Where the local government finds that a hearing is not necessary, a decision setting forth reasons therefor shall be prepared, shall be a matter of public record and shall be mailed to all local governments where the proposed work or any part of it is located and to all persons who filed a statement with the local government following the publication of such notice of application. All owners of record of the adjacent land and the local governments where the proposed activity is located shall be notified by certified mail of the hearing not less

than fifteen days prior to the date set for such hearing. The local government shall cause notice of such hearing to be published in two newspapers having a general circulation in the area where the affected freshwater wetlands are located. All applications and maps and documents relating thereto shall be open for public inspection at the office of the clerk of the local government in which the wetland is situated. At such hearing any person or persons filing a request for a hearing or a timely notice of appearance may appear and be heard.

3. In addition to the provisions of article 70 of this chapter and rules and regulations adopted thereunder, the rules and regulations adopted by the department pursuant to this article to implement its processing of permit applications, renewals, modifications, suspensions and revocations shall govern permit administration by the department under this article, provided however, that after the department has given notice to an applicant that an application is complete, or the application is deemed complete, the applicant shall cause a notice of application to be published in a newspaper of general circulation in the affected area as provided in rules and regulations of the department.

4. The applicant shall have the burden of demonstrating that the proposed activity will be in accord with the policies and provisions of this article. To the greatest extent practicable, such hearing shall be incorporated with any public hearing required by the town, village, general city, general municipal or environmental conservation laws in connection with approvals or permits otherwise required before commencement of regulated activities on lands containing such wetlands.

5. Any person may inquire of the department as to whether or not a given parcel of land includes a freshwater wetland subject to regulation or a regulated freshwater wetland adjacent area. The department shall give a definite answer in writing within ninety days of such request as to the status of such parcel and whether a permit is required for the proposed activity, provided that the person has a delineation verified by the department and site-specific development plans. Provided that, in the event that weather or ground conditions prevent the department from making a determination within ninety days, it may extend such period

until a determination can be made. Such answer in the affirmative shall be reviewable; such an answer in the negative shall be a complete defense to the enforcement of this article as to such parcel of land for a period of five years from the date the department issues the negative answer.