§ 24-0705. Granting permits.

1. In granting, denying or limiting any permit, the local government or the commissioner shall consider the effect of the proposed activity with reference to the public health and welfare, climate change, fishing, flood, hurricane and storm dangers, and protection or enhancement of the several functions of the freshwater wetlands and the benefits derived therefrom which are set forth in section 24-0103 of this article. The effects of the proposed activity shall be considered by the department or a local government, as the case may be, irrespective of political boundaries.

2. Duly filed notice in writing that the state or any agency or subdivision thereof is in the process of acquiring any freshwater wetlands by negotiation or condemnation shall be sufficient basis for denial of any permit.

3. No permit shall be granted under this section unless the proposed activity is consistent with the land use regulations applicable pursuant to section 24-0903 of this article within the boundaries of the local government involved and with the policy set forth in section 24-0103 of this article.

4. In granting a permit, the local government or the commissioner may limit the same or impose conditions or limitations designed to carry out the public policy set forth in this article. The local government or the commissioner may require a bond in an amount and with surety and conditions satisfactory to him securing to the state or local government, as the case may be, compliance with the conditions and limitations set forth in the permit. The local government may suspend or revoke a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the permit or has exceeded the scope of the activity as set forth in the application. The local government may suspend the permit if the applicant fails to comply with the terms and conditions set forth in the application. Department suspension and revocation proceedings shall be governed by the provisions of article 70 of this chapter and rules and regulations

adopted thereunder and by the provisions of rules and regulations adopted by the department as provided in section 24-1301 of this article.

5. The local government or the commissioner shall state upon the record findings and reasons for all actions taken pursuant to this section.

6. Review of the determination of the local government or of the commissioner shall be, within a period of thirty days after the filing thereof, pursuant to the provisions of article seventy-eight of the civil practice law and rules. Any owner of the wetland affected and any resident or citizen of the local government shall be deemed to have the requisite standing to seek review.

7. In the event that the court finds the action reviewed constitutes a taking without just compensation, and the land so regulated merits protection under this article, the court may, at the election of the commissioner, either (i) set aside the order or (ii) require the commissioner to proceed under the condemnation law to acquire the wetlands or such less than fee rights therein as have been taken.