§ 24-0903. Land use regulations for freshwater wetlands.

1. The commissioner shall classify freshwater wetlands according to their most appropriate uses, in light of the values set forth in section 24-0105 of this article and the present conditions of such wetlands. The commissioner shall determine what uses of such wetlands are most compatible with the foregoing and shall prepare minimum land use regulations to permit only such compatible uses. The classifications may cover freshwater wetlands in more than one governmental subdivision. Permits pursuant to section 24-0701 of this article are required whether or not a classification has been promulgated.

2. The commissioner shall upon completion of minimum land use regulations as provided in subdivision one of this section, forward the same to the local governments affected thereby. Within six months of receipt of the minimum land use regulations, the legislative body of each such local government shall submit to the commissioner proposed regulations governing the freshwater wetlands within its boundaries. Such proposed regulations shall be consistent with the purposes of this article and may be more restrictive than the minimum land use regulations as determined by the commissioner under this article. Where the proposed local wetlands use regulations do not meet the minimum land use regulations as determined by the commissioner, the proposed local regulations shall be accompanied by supporting materials setting forth, among other things, that there are overriding economic and social considerations vital to the growth and economic base of such local government that clearly require such variance.

3. If the commissioner finds that the proposals meet the conditions stated in subdivision two of this section, the commissioner, after taking into consideration their effect on other local governments, may approve said local land use regulations.

4. In the event the commissioner does not approve local freshwater wetlands land use regulations, he shall then frame land use regulations governing such freshwater wetlands.

5. Prior to the adoption of any land use regulations governing freshwater wetlands, the commissioner shall hold a public hearing thereon in the area in which the affected freshwater wetlands are located, and give fifteen days prior notice thereof by posting on the department's website or by publication at least once in a newspaper having general circulation in the area of the local government involved. The commissioner shall promulgate the regulations and post such order on the department's website or publish such order in a newspaper having general circulation in the area of the local government affected and make such plan available for public inspection and review.

6. The commissioner shall accept and review applications to change the regulations annually.

7. Any person aggrieved by any such order or regulation may seek judicial review pursuant to article seventy-eight of the civil practice law and rules in the supreme court for the county in which the freshwater wetland is located, within thirty days after the date of the filing of the order with the clerk of the county in which the wetland is located.

8. Except as provided in section 24-0805 of this article, this section shall not apply to freshwater wetlands or portions thereof located within the Adirondack park.