§ 34-0107. Department regulation of coastal erosion hazard areas.

1. If a city which wholly includes one or more counties fails to submit an erosion hazard area local law or ordinance to the commissioner within the time specified in subdivision one of section 34-0105 of this article, as such time may be extended by the commissioner under subdivision three of such section, or if such local law or ordinance has been disapproved pursuant to subdivision two of such section, or if a county fails to submit an erosion hazard area local law to the commissioner within the time specified in subdivision one of section 34-0106 of this article as such time may be extended by the commissioner under subdivision three of such section, or if a county local law has been disapproved pursuant to subdivision two of such section, the commissioner shall, within ninety days after such failure or disapproval, as the case may be, issue and enforce regulations which apply the minimum standards promulgated pursuant to section 34-0108 of this article within the affected erosion hazard area.

2. Prior to the issuance of regulations applicable to a particular erosion hazard area pursuant to subdivision one of this section, the commissioner shall hold a public hearing thereon in the affected city, town or village, and shall give at least fifteen days prior notice thereof by publication at least once in a newspaper having general circulation therein. The commissioner shall issue the regulations within thirty days after the close of such hearing, shall publish a summary of such regulations in a newspaper having general circulation in the affected city, town or village, and shall make such regulations available for public inspection. Such regulations shall not take effect until thirty days after the filing thereof with the clerk of the affected county.

3. If the commissioner does not designate, pursuant to subdivision eight of section 34-0106 of this article, a county to administer and enforce a city, town or village erosion hazard area ordinance or local law for which approval has been revoked pursuant to subdivision five of section 34-0105 of this article, or if the commissioner, pursuant to subdivision seven of section 34-0106 of this article, revokes his

approval of a county erosion hazard area local law or, pursuant to such subdivision revokes his designation of a county to administer and enforce a city, town or village erosion hazard area ordinance or local law, he shall administer and enforce the affected ordinance or local law in such manner as to insure compliance of activities or development in the affected erosion hazard area with the minimum standards promulgated pursuant to section 34-0108 of this article. The commissioner may designate such county to commence administration and enforcement of an ordinance or local law subject to this subdivision upon receiving satisfactory assurance that such administration and enforcement will be undertaken in such manner as to adequately carry out the purposes and policies of this article.

4. Nothing in this section shall be construed to prohibit any local government from adopting and enforcing any ordinances or local laws, or exercising any other lawful powers within any area governed by erosion hazard area regulations adopted pursuant to this section; provided, however, that to the extent of any inconsistency between a county, city, town or village ordinance or local law and erosion hazard area regulations adopted pursuant to this section, the latter shall apply.

5. In any city, town or village where there are in effect erosion hazard area regulations issued by the commissioner pursuant to this section, nothing herein shall be construed as preventing such city, town or village from submitting, at any time, an erosion hazard area ordinance or local law to the commissioner for approval pursuant to section 34-0105 of this article, or for any county to provide such regulation in absence of local law or ordinance, pursuant to section 34-0106 of this article. Before county assumption of such regulation, there shall be notification given to the city, town or village of such intention by the county, and any objections shall be reviewed and considered by the commissioner before approving such county regulation. When a county, city, town or village local law or ordinance is approved by the commissioner, the erosion hazard area regulations issued by the commissioner pursuant to this section shall cease to apply, and a notice to that effect shall be filed with the clerks of the affected local governments.

6. Consistent with the provisions and purposes of article seventy of this chapter, where an application is made to the commissioner for a permit pursuant to section 34-0109 of this article for any activity or development within a designated erosion hazard area, the commissioner shall ascertain what, if any, other permit, variance or hearing procedures or applications are required with regard to such activity or development by any governing body of the state or any of its subdivisions pursuant to any federal, state or local law or ordinance. The commissioner, at the request of the applicant shall consolidate and coordinate said application, permit, variance and hearing procedures, as required by each such governing authority, into a single, comprehensive hearing and review procedure with regard to such activity or development. However, nothing contained in this section shall be deemed to limit or restrict the state, its subdivisions or any other governing authorities, which are properly a party to such consolidated review proceeding, from the independent exercise of such discretionary authority with respect to the issuance, denial or modification of such permits, variances or other forms of approval as they may have been granted by law.