§ 33-0303. Powers and duties of the commissioner and the department.

1. Jurisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides, is by this article vested exclusively in the commissioner.

2. All authority vested in the commissioner by this article may be executed with like force and effect by employees of the department designated by the commissioner; however, all hearings held under this article except those held under the provisions of title 9 shall be conducted by the commissioner or by a person designated by him for that purpose, and any decision rendered after any such hearing shall be made by the commissioner.

3. The commissioner is authorized, after a hearing:

a. To declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles, or substances;

b. To determine whether pesticides are highly toxic to man, and to promulgate a list of such pesticides;

c. To determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of paragraph d of subdivision 1 of section 33-l301;

d. To promulgate a list of restricted use pesticides and the usages of such pesticides that may be permitted subject to whatever conditions or limitations which the commissioner deems appropriate to fully protect the public interest; provided, however, that no hearing shall be required on individual additions to such list unless requested sixty days after notice has been provided in the environmental notice bulletin as prescribed in section 3-0306 of such law, as added by chapter seven hundred fourteen of the laws of nineteen hundred seventy-five, by the applicant or an interested party; and

e. To adopt, promulgate and issue such rules and regulations as he may deem necessary to carry out and give full force and effect to the provisions of this article. However, rules and regulations regarding business registration and certification may be adopted only after a public hearing. Such rules and regulations may prescribe methods to be used in the application of pesticides, including the time, place, manner and method of application and equipment used, and may restrict or prohibit use of materials in designated areas during specified periods of time, and shall encompass all reasonable factors which he deems necessary to prevent damage or injury to health, property and wildlife. Rules and regulations shall be filed and open for public inspection at the principal office of the department and shall be filed with the Secretary of State. The commissioner shall promulgate a regulation authorizing the use of alternative containers for pesticides by pesticide users.

4. In order to avoid confusion endangering the public health, or the life or health of any other non-target organisms, resulting from diverse requirements, particularly as to labeling and coloring of pesticides, and to avoid increased costs to the people of this state due to the necessity of complying with diverse requirements in the manufacture and sale of pesticides, it is desirable that there should be uniformity between the requirements of the several states and the federal government relating to pesticides. To this end the commissioner is authorized, after due public hearing, to adopt by regulation such regulations, applicable to and in conformity with the primary standards established by this article, as have been or may be prescribed with respect to pesticides by departments or agencies of the United States government.

5. The commissioner may require the submission of the complete formula of any pesticide whenever he deems it necessary in the administration of this article. The commissioner, of his own motion or upon complaint, may cause an examination to be made to determine whether any pesticide complies with the requirements of this article. If it shall appear from such examination that a pesticide fails to comply with the provisions of this article, the commissioner shall cause notice to be given to the

offending person in the manner provided in section 71-2903, and the proceedings shall be as provided in such article provided that pesticides may be seized and confiscated as provided in title 15 of this article 33.

6. The commissioner may cooperate with any other agency of the state or its subdivisions or with any agency of any other state or of the federal government for the purpose of carrying out the provisions of this article and of securing uniformity of regulations.

7. The commissioner, in consultation with the commissioner of education and the commissioner of health, shall develop guidance on pesticide alternatives to facilitate compliance with section four hundred nine-k of the education law and three hundred ninety-g of the social services law.