§ 33-1105. Orders.

1. If the commissioner finds, from testimony adduced, that:

a. There has been actual damage to grapevines or grape crops within the affected area; and

b. Such damage was caused by the use of the chemical substance complained of in the petition, and by that cause alone; and

c. Such use was upon lands within the affected area or in proximity to the affected area, or upon the damaged crop itself; and

d. The commercial production of grapes within the affected area constitutes a major source of agricultural income within the affected area; then the commissioner may issue his order prohibiting or restricting the use of 2,4-D (2,4-D Dichlorophenoxyacetic acid), 2,4-5-T (Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area for a period of time to be specified in the order. The affected area may be altered by description in the order of the commissioner, if the commissioner finds that such alteration should be made to effectuate the purposes of the petition. All restrictions upon the use of 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area shall be set forth in the order with particularity.

2. The order shall continue in effect from year to year unless modified or rescinded by the commissioner. Not later than February 15 of each year, the commissioner shall give notice of the order by publication in a newspaper of general circulation in the area affected. The notice shall state the terms of the order in general language and that the order will continue in effect for the period of time specified in the order, unless a petition for modification or rescission of the order, signed by ten or more grape growers or fifty or more persons not grape growers in the affected area is filed with the commissioner on or before March 1 of such year.

3. If a request for modification or rescission is received, the commissioner shall hold a hearing after giving notice as provided in section 33-1103. After the hearing, the commissioner shall make such findings as the evidence adduced justifies and may continue, modify, or rescind the order. If the commissioner modifies or rescinds the order, he shall give notice of his action as provided in subdivision 4 of this section.

4. All orders shall be effected upon posting the same prominently in at least five of the most public places within the affected area. They shall also be published in a newspaper having general circulation in the areas affected but such publication shall not be a condition precedent to their effectiveness.