§ 33-1503. Procedure following seizure.

1. Whenever the commissioner finds, or has probable cause to believe, that any pesticide is adulterated or misbranded or improperly labeled, or is not colored within the meaning of this article, or is not registered as required under this article, or for which a permit has not been issued for its sale, offer for sale, purchase, possession or use as required by this article, he may affix to such pesticide a tag or other appropriate marking giving notice that such pesticide is or is suspected of being adulterated or misbranded, or improperly labeled, or not colored, or not registered as required under this article, or for which a permit has not been issued for its sale, offer for sale, purchase, possession or use as required by this article, and has been quarantined, and warning all persons not to remove or dispose of such pesticide, by sale or otherwise, until permission for removal or disposal is given by the commissioner or his duly authorized representative.

2. Before destruction of any pesticide following seizure or quarantine, the commissioner shall give the owner, proprietor or custodian of such pesticide ten days' notice in writing, to be served either personally or by mail, of a hearing for the owner, proprietor, or custodian, to show cause why such pesticide should not be destroyed or otherwise disposed of in accordance with the provisions of law.

3. Following such hearing, the commissioner shall render a decision in writing and filed with the department, and a copy thereof shall be served either personally or by mail on the owner, proprietor, or custodian of such pesticide, but formal findings of fact shall not be required to be made or filed. The decision shall be subject to review under article 78 of the Civil Practice Law and Rules instituted within thirty days after receipt by the owner, proprietor or custodian of such pesticide of a copy of the commissioner's decision.

4. Whenever any pesticide is seized or quarantined as provided in this section, the destruction and disposition thereof, together with any necessary storage, handling or other incidentals between the time of seizure or quarantine and the destruction and disposition thereof, shall

be the responsibility, both financially and otherwise, of the owner, proprietor or custodian of such pesticide; provided, however, that such destruction and disposition shall be carried out only under the direction and immediate supervision of the commissioner or his duly authorized representative.