



Department of Pesticide Regulation



Gray Davis
Governor

Winston H. Hickox
Secretary, California
Environmental
Protection Agency

Paul E. Helliker
Director

July 24, 2001

Aquacide Company
1627 9th Street
P.O. Box 10748
White Bear Lake, Minnesota 55110-0748

Dear Sir or Madam:

It has come to our attention that you are offering agricultural use pesticides (Aquacide Pellets U.S.EPA Registration No. 5080-2 containing 17.5 % 2,4-D) and Aquashade (U.S. EPA Registration number 33068-1) for sale to customers (end-users) in California without a California pest control dealer license.

Section 12101 of the California Food and Agricultural Codes states that "No person shall act in the capacity of a pest control dealer or shall engage or offer to engage in the business of, or advertise as, or assume to act as a pest control dealer unless he or she is licensed as a pest control dealer."

"*Pest control dealer*" means any person, including any manufacturer, distributor, or retailer who engages in any of the following business activities: (a) Selling pesticides to users for an agricultural use; (b) Selling to users any method or device for the control of agricultural pests, such as biological agents, lures, or insect-trapping devices; (c) Soliciting sales of pesticides by making agricultural use recommendations through field representatives, or other agents; and (d) Selling to a user a pesticide classified pursuant to Section 14004.5 as a restricted material that requires either a permit for possession and use or which may be used only by, or under the direct supervision of, a certified applicator.

"*Agricultural Use*" means the use of any pesticide or method or device for the control of plant or animal pests, or any other pests, or the use of any pesticide for the regulation of plant growth or defoliation of plants. It excludes the sale or use of pesticides in properly labeled packages or containers that are intended for any of the following: (a) Home use, (b) Use in structural pest control, (c) Industrial or institutional use, (d) The control of an animal pest under the written prescription of a veterinarian, (e) Local districts or other public agencies that have entered into and operate under a cooperative agreement with the State Department of Health Services.

FLEX YOUR POWER! *The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <www.cdpr.ca.gov>.*



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Section 12848 of the California Food and Agricultural Code states that "It is unlawful for any person, other than the registrant or pesticide (pest control) dealer licensed pursuant to Section 12107 to sell or distribute into or within this state any pesticide product that have been registered by the director and that are labeled for agricultural use unless the person is licensed by the director as a *pesticide broker*...."

Pest control dealer licensing requirements can be met by acquiring a pest control dealer license and a pest control dealer designated agent license. Pesticide broker license requirements can be met by obtaining the license to sell agricultural use pesticides first into California. Pesticide brokers cannot sell agricultural use pesticides to end-users. Enclosed for your convenience are the laws and regulations concerning pest control dealers and pesticide brokers and the applications necessary to obtain your licenses. You may view our laws and regulations pertaining to pesticides and pest control operations on our web site at <www.cdpr.ca.gov>. Your dealership will be responsible for the payment of the mill assessment on all agricultural use pesticides first sold into California unless the registrant or licensed pesticide broker has already paid the mill assessment.

Persons who are end-users of agricultural use pesticides in California must purchase the pesticide from a California licensed pest control dealer. Section 12971.5 of the FAC states that "No person, by himself, herself or through another, shall purchase for use in this State a pesticide that is labeled for agricultural use except from a person licensed as a pest control dealer. Also, persons using those products shall retain receipts of the purchase of the products for four years and make receipts available for inspection upon request of the director or the commissioner."

This letter serves as notification to you of the laws and regulations concerning pest control dealer and pesticide broker licensing and their responsibilities and the responsibility of persons purchasing agricultural use pesticides for use in California.

If you have any questions, please do not hesitate to contact Mr. Mac Takeda, of my staff, at (916) 445-3838.

Sincerely,



David Duncan, Chief
Pest Management and Licensing Branch
(916) 324-4100

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Enclosures

cc: Minnesota Department of Agriculture (w/o Enclosures)
Mr. Paul Boch, Nevada County Agricultural Commissioner (w/o Enclosures)
Mr. Keith Kohler, Placer County Agricultural Commissioner Office (w/o Enclosures)
Mr. Daniel J. Merkley, Agricultural Commissioner Liaison (w/o Enclosures)
Mr. Mac Takeda, Agriculture Program Supervisor II (w/o Enclosures)
Ms. Shelley Lopez, Senior Pesticide Use Specialist (w/o Enclosures)

