

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Materials Management, Bureau of Pesticides Management

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January 16, 2020

VIA EMAIL (81927)

Mr. Michael Kellogg
Alligare, LLC
c/o Pyxis Regulatory Consulting, Inc
4110 136th St. Ct. NW
Gig Harbor, WA 98332

Dear Mr. Kellogg:

Re: Registration of Flumioxazin as Contained in Alligare Flumigard SC Herbicide (EPA Reg. No. 81927-78) for Turf, Aquatic Use, and for Use on Bare Ground Non-Crop Areas, Conifer, Deciduous Trees, Ornamentals, and Poplar Re-Forestation Sites in New York State

The New York State Department of Environmental Conservation (Department) has reviewed the application, received January 9, 2020, for registration of the above-listed product. This product contains flumioxazin and is labeled for aquatic use, and for use on bare ground non-crop areas, conifer and poplar re-forestation sites, container and field grown conifers and deciduous trees, and for maintaining non-crop areas and dormant bermudagrass.

Flumioxazin was registered in New York State in 2003 for use in soybeans, and as a pre-plant burndown of field corn, rice, sorghum, sunflowers, and wheat. Three subsequent MCL applications also have been registered. These added container and field grown ornamentals, shrubs, conifers, deciduous trees, and non-crop areas in 2005, strawberries, pome fruit, and stone fruit in 2008, and aquatic weed control in 2013. Flumioxazin was first registered for turf use in 2018. In New York State, the currently registered maximum application rates for agricultural crops, ornamentals, conifers, and non-crop areas are: 0.382 lb. flumioxazin/acre/application and 0.764 lb. flumioxazin/acre/year and the initial maximum concentration of flumioxazin in water is 400 ppb for the control of aquatic weeds in bayous, canals, drainage ditches, fresh water ponds, lakes, marshes and reservoirs. The currently approved application rates for turf are 0.009 lb. flumioxazin/acre/application and 0.018 lb. flumioxazin/acre/year which were registered for Sure Power Selective Herbicide and ArmorTech Tetra Selective Herbicide (EPA Reg. No. 228-741). Due to the significantly lower application rates, an additional technical review was not warranted for registration on turf in 2018.

Alligare Flumigard SC Herbicide contains 42.0% flumioxazin. The single application and seasonal rates for flumioxazin on the product label are: 0.38 lb. ai/acre/application and 0.75 lb. ai/acre/year for all application sites listed. The Flumigard SC labeled application rates of flumioxazin for dormant bermudagrass including residential lawns, golf courses and sod farms are much higher than other products currently registered for turf use which technically represents a Major Change in Labeling (MCL) in New York State. However, the previous technical reviews of flumioxazin at these higher rates did not identify any concerns. In addition, due to the aquatic uses listed on the product label, Alligare Flumigard SC Herbicide will be classified as “restricted use” under rules and regulations 6NYCRR 326.2(h). Therefore, since the product will be used only by trained applicators and the turf uses are limited to dormant bermudagrass, an additional technical review is **not** required for this specific application.

The Department has concluded that at these application rates, the limited turf use by trained applicators should not have an adverse effect on the health of applicators or the general public, or the environment in New York State when used as labeled.

The Department hereby registers flumioxazin as contained in the pesticide product Alligare Flumigard SC Herbicide (EPA Reg. No. 81927-78) for use as a “restricted use” product in New York State.

Enclosed for your files are the Certificate of Pesticide Registration and New York State stamped “Accepted” labeling.

Please be aware that pesticide products classified as “restricted use” are restricted in their purchase, distribution, sale, use and possession in New York State. Furthermore, each product may only be purchased and used by a certified applicator in New York State.

According to New York State Department of Environmental Conservation Regulations 6 NYCRR 326.3(a): “It shall be unlawful for any person to distribute, sell, offer for sale, purchase for the purpose of resale, or possess for the purpose of resale, any restricted pesticide unless said person shall have applied for, and been issued a commercial permit.” Should you require information to obtain a commercial permit, please contact the Pesticide Reporting and Certification Section, at (518) 402-8748.

The Pesticide Reporting Law within Environmental Conservation Law Article 33 Title 12 requires all certified commercial pesticide applicators to report information annually to the Department regarding each pesticide application they make. Commercial pesticide retailers are required to report all sales of restricted pesticide products and sales of general use pesticide products to private applicators for use in agricultural crop production. If no sales are made within New York State, a report must be filed with the Department indicating this is the case.

If you need information relating to the Pesticide Reporting Law, or annual report forms, please visit the Department’s website at <http://www.dec.ny.gov/chemical/27506.html> or call the Pesticide Reporting and Certification Section at (518) 402-8748.

Mr. Michael Kellogg

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Please note, a proposal by Alligare, LLC or any registrant to register a product containing flumioxazin at higher single application and/or seasonal rates, or whose labeled uses are likely to increase the potential for significant exposure to humans, non-target organisms, or the environment, would constitute a major change in labeled use pattern. Such an application must be accompanied by a new application fee and meet the requirements specified in 6 NYCRR Part 326.17.

Please be aware that any unregistered product or any label not approved by the Department may **not** be sold, offered for sale, distributed, or used in New York State.

Please contact Paula McBath, of my staff, at (518) 402-8768 or via email at paula.mcbath@dec.ny.gov, if you have any questions regarding this letter.

Sincerely,

/s/

Jeanine M. Broughel
Chief
Pesticide Product Registration Section