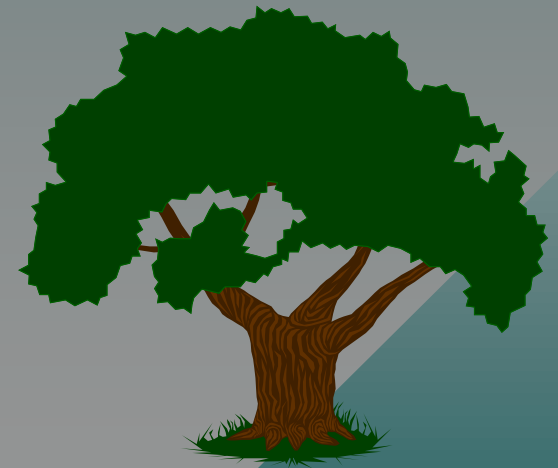


BORDER CASE

TALPICIDES

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Guidance document agreed between the Commission services (DGs) and the competent authorities of EU Member States for the biocidal products accor. Directive 98/8/EC and for the plant protection products accor. Directive 91/414/EEC on:

Borderline between Directive 98/8/EC concerning the placing on the market of biocidal products and Directive 91/414/EEC concerning the placing on the market of plant protection products

Borderline case - rodenticides (1)

Biocidal Product type 14 (Rodenticide):

Products used for the control of mice, rats or other rodents

outside plant growing areas,

(agricultural field, greenhouse, forest) for example in farms, cities, industrial premises etc., and inside plant growing areas not to protect plant or plant products.

Borderline case - rodenticides (2)

Plant Protection Products:

Rodenticides applied

in plant growing areas

(agricultural field, greenhouse, forest) to protect plants or plant products temporarily stored in the plant growing areas in the open without using storage facilities.

Guidance document on borderline:

“If a product is used in both situations, than it falls within the scope of both Directive 98/8/EC and Directive 91/414/EEC for the purpose of these Directive and it will need dual authorisation for the relevant use.”

That is clear and thus the rodenticides used in the gardens are PPPs.

Manual of Decisions for Implementation of Directive 98/8/EC Concerning the Placing on the Market of Biocidal Products (1):

(our available version „Last modified: 21.12.2011“)

2.1.1.6. Products against moles (page 14)

Question:

A company has developed a range of products to control moles in areas where

no plants are grown for agricultural purposes.

Manual of Decisions ... (2):

2.1.1.6. Products against moles (ctnd.; page 14)

These are for example playgrounds, paths, tennis courts, race courses, airstrips, etc. in order to protect humans or animals (in particular horses) or objects (such as small aircraft) from possible injuries or damage caused by stumbling and falling over molehills. Other products are used to prevent moles from digging in soil constructions, dams, etc. in order to protect these constructions from deterioration caused by tunnels and molehills.

Are these products biocides or plant protection products?

Manual of Decisions ... (3):

2.1.1.6. Products against moles (ctnd.; page 14)

Answer (agreed in March 2005 - a bit obsolete☹):

Products to control moles on playgrounds, paths, tennis courts, race courses, and airstrips to protect humans or race horses from potential injuries or for aesthetic reasons, and for controlling moles in soil constructions such as dams to protect them from damage caused by mole tunnels and hills are biocidal products.

The intention of the use of these products is clearly not to protect plants or plant products.

„Per analogiam“ or „de facto“ approach ?:

Humans or race horses (and race dogs too; and humans and animals in small aircrafts) are protected from potential injuries *secondarily as primarily* the grass, i.e. plant grown for agricultural purposes, as being cut and used as feedstuff, is protected and thus humans or race horses (or race dogs or humans and animals in small aircrafts) are protected indirectly by using the products against moles.

Thus in this case it is plant protection product ! (?)

Problem with biocidal products against moles – misusing as PPPs by gardeners:

Biocidal products against moles are of the highest interest of small gardeners, nevertheless on the label being claimed „Not to be used for plant protection“ and thus the product is classified as biocide. On one of the biocides there appeared also warning sentence „Toxic to moles !“, making the product very attractive for gardeners !

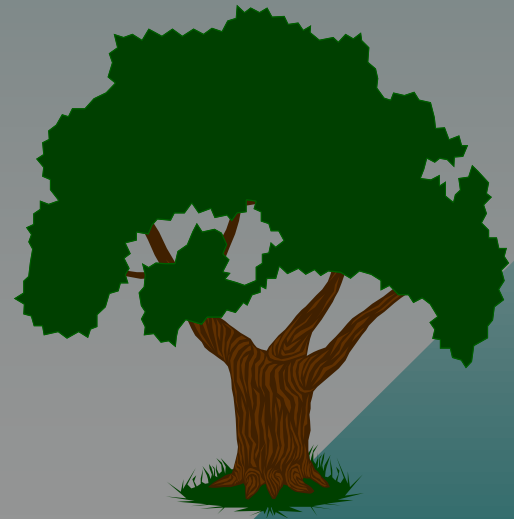
Products against moles are „*de facto*“ used in both situations and thus will need dual authorisation for the relevant use.

„Pandora's box“ opening ?

There are up to now only three approved active substances contained in talpicides - aluminium phosphide, calcium phosphide and magnesium phosphide - for which only outdoor uses may be authorised and authorisations should be limited to professional users.

Who will be able to defend such a PPPs ?
And, by the way, what does such a „should be“ mean from a legal point of view for the authorisation ?

Thank you for your attention!



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