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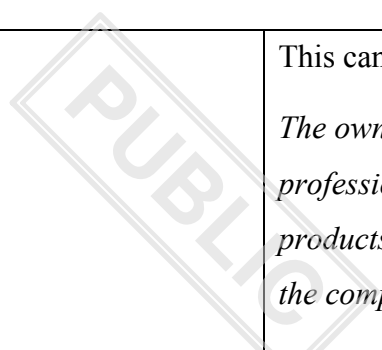
WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a REGULATION ON THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115 - Follow up to the Working Party on Plants and Plant Health Questions (Pesticides/Plant Protection Products) on 6 March 2023 – comments from Luxembourg

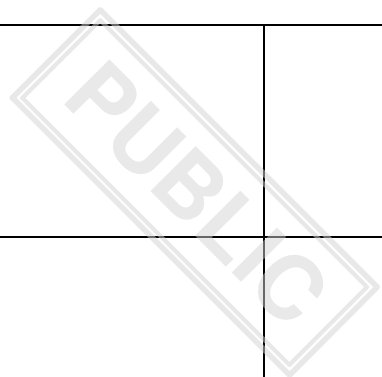
Delegations will find in annex comments from Luxembourg on articles 29-32.

Member State:	Luxembourg
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CHAPTER VIII		
APPLICATION EQUIPMENT		
<i>Article 29</i>		
Electronic register of application equipment in professional use		
1. By ... [<i>OP please insert the date = first day of the month following 9 months after the date of entry into force of this Regulation</i>], an owner of application equipment in professional use shall enter the fact that he or she is the owner of the application equipment in the electronic register of application equipment in professional use referred to in Article 33, using the form set out in Annex V, unless the Member State in which the owner uses the equipment has exempted that equipment from inspection in accordance with Article 32(3).		<p>This article is overly complicated. We suggest a radical simplification of the wording, as the key issue is only to lay down the obligations of the owner regarding notification of its PAE.</p> <p>Moreover the electronic register is operated by the CA, and no direct access should be given to the operator.</p> <p>Finally it should be considered whether the obligation notification should be imposed on the owner or the user.</p>



		<p>This can be summarized as follows:</p> <p><i>The owner/user of a PAE used for the professional application of plant protection products shall notify its equipment/activity to the competent authority, in view of registration.</i></p> <p><i>The owner/user of a PAE shall submit and update his data using the form set out in Annex V.</i></p>
<p>2. If application equipment in professional use is sold, the seller and the buyer shall enter the fact of the sale, within 30 days after the sale, in the electronic register of application equipment in professional use referred to in Article 33, using the form set out in Annex V, unless the application equipment in professional use has been exempted from inspection in the relevant Member State(s) in accordance with Article 32(3). A similar obligation to enter a transfer of ownership in the electronic register applies in the</p>		



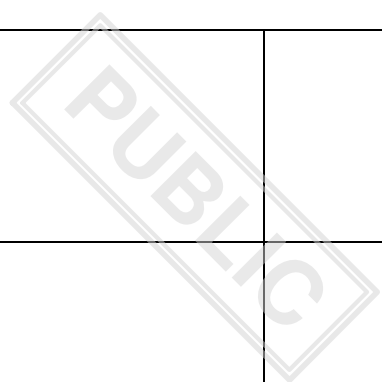
case of any other changes of ownership of application equipment in professional use that has not been exempted from inspection in the relevant Member State(s) in accordance with Article 32(3).		
3. If application equipment in professional use is withdrawn from use and is not intended to be used again, its owner shall, within 30 days after the withdrawal from use, enter the fact that the equipment has been withdrawn from use in the electronic register of application equipment in professional use referred to in Article 33, using the form set out in Annex V.		
4. If application equipment in professional use is returned to use, its owner shall, within 30 days after the return to use, enter that fact in the electronic register of application equipment in professional use referred to in Article 33 using the form set out in Annex V.		
5. The Commission is empowered to adopt delegated acts in accordance with Article 40 amending Annex V in order to take into account		

technical progress and scientific developments.		
Article 30		
Collection of information and controls		
<p>1. Each Member State shall designate one or more competent authorities to:</p> <p>(a) establish and maintain a central electronic register to record information on all application equipment in professional use in the Member State;</p> <p>(b) use the central electronic register to receive and process third party entries regarding ownership, transfer of ownership, sale, withdrawal from use and return to use of application equipment in professional use;</p> <p>(c) inspect, or oversee the inspection of, application equipment in accordance with Article 31(1), (2), (3) and (6);</p> <p>(d) issue, or oversee the issuing of, certificates of inspection in accordance with Article 31(7).</p> <p>Where the designated competent authority does</p>	<p>1. Each Member State shall designate one or more competent authorities to:</p> <p>(a) establish and maintain a central electronic register to record information on all application equipment in professional use in the Member State; with the data referred to in article 29.</p> <p>(b) use the central electronic register to receive and process third party entries regarding ownership, transfer of ownership, sale, withdrawal from use and return to use of application equipment in professional use;</p> <p>(c) inspect, or oversee the inspection of, application equipment in accordance with Article 31(1), (2), (3) and (6);</p> <p>(d) issue, or oversee the issuing of, certificates of inspection in accordance with Article 31(7).</p> <p>Where the designated competent authority does</p>	<p>The wording of the first paragraph is again overly complicated and redundnat with provisions of article 31.</p>

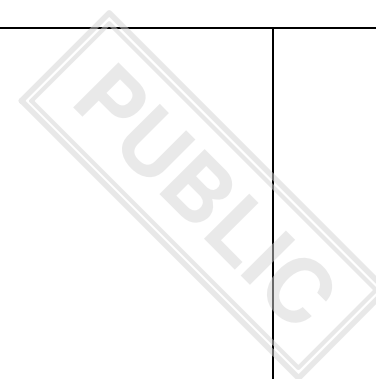
not carry out the inspection of application equipment in professional use, it shall designate one or more bodies to carry out such inspections.	not carry out the inspection of application equipment in professional use, it shall designate one or more bodies to carry out such inspections.	
2. Each Member State shall carry out official controls to verify compliance by operators with the provisions of this Regulation relating to application equipment. Member States shall take appropriate follow-up measures to remedy any specific or systemic shortcomings identified through controls performed by the Commission experts in accordance with paragraphs 3 and 4. They shall give the necessary assistance to ensure that the Commission experts have access to all premises or parts of premises, and goods, and to information, including computer systems, relevant for the execution of their duties.	2. Each Member State shall carry out risk-based official controls to verify compliance by operators with the provisions of this Regulation relating to application equipment. Member States shall take appropriate follow-up measures to remedy any specific or systemic shortcomings identified through controls performed by the Commission experts in accordance with paragraphs 3 and 4. They shall give the necessary assistance to ensure that the Commission experts have access to all premises or parts of premises, and goods, and to information, including computer systems, relevant for the execution of their duties.	<p>The Commission proposal copies part of the provisions of article 116 to 119 of the OCR regulation 2017/625 into paragraphs 2, 3 and 4 of article 30.</p> <p>Some important elements are missing, such as the concept of controls based on a risk assessment (article 9 OCR) and the cooperation of the MS authorities in the framework of the Commission audits (article 116(2) OCR).</p>
3. Commission experts shall perform controls, including audits, in each Member State to verify the application of the rules relating to application equipment laid down in this Regulation. The experts may investigate and collect information on official controls and enforcement practices in the	3. Commission experts shall perform controls, including audits, in each Member State to verify the application of the rules relating to application equipment laid down in this Regulation. The experts may investigate and collect information on official controls and enforcement practices in the	

area of application equipment.	area of application equipment. The Commission controls shall be organised in cooperation with the competent authorities of the Member States.	
<p>4. The Commission shall:</p> <p>(a) prepare a draft report on the findings and on recommendations addressing the shortcomings identified by its experts during these controls;</p> <p>(b) send to the Member State where those controls have been performed a copy of the draft report referred to in point (a) for its comments;</p> <p>(c) take the comments of the Member State referred to in point (b) into account in preparing the final report on the findings of the controls performed by its experts in the Member States as provided for in this Article;</p> <p>(d) make publicly available the final report referred to in point (c) and the comments of the Member States referred to in point (b).</p>		
Article 31		

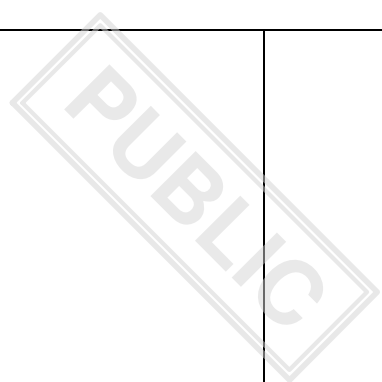
Inspection of application equipment in professional use		
1. The competent authority referred to in Article 30 or a body designated by it shall inspect application equipment in professional use every three years, starting from the date of first purchase. The competent authority shall ensure that there is sufficient staff, equipment and other resources necessary for the inspection of all application equipment due for inspection, within the three year cycle.	1. The competent authority referred to in Article 30 or a body designated by it shall inspect application equipment in professional use every three years, starting from the date of first purchase. The first inspection shall be performed 6 months after the purchase of the application equipment at the latest. The competent authority shall ensure that there is sufficient staff, equipment and other resources necessary for the inspection of all application equipment due for inspection, within the three year cycle.	
2. The inspection referred to in paragraph 1 shall verify whether the application equipment in professional use complies with the requirements set out in Annex IV.		
3. The inspection shall be carried out at a location where the risk of pollution and water contamination can be avoided. The influence of		



external conditions on the reproducibility of the results of the inspection, such as effects of wind and rain, shall be minimised by the authority or body carrying out the inspection.		
4. All equipment necessary for an inspection and used by the inspector for testing the application equipment shall be accurate, in good condition and checked and, where necessary, calibrated at regular intervals.		
5. The owner of the application equipment in professional use shall ensure that the application equipment is clean and safe before the inspection starts.		
6. The results of each inspection for which application equipment in professional use passes the test shall be recorded by the competent authority referred to in Article 30 in the central electronic register of application equipment in professional use referred to in Article 33.		
7. A certificate of inspection shall be: (a) issued by the competent authority referred to in		

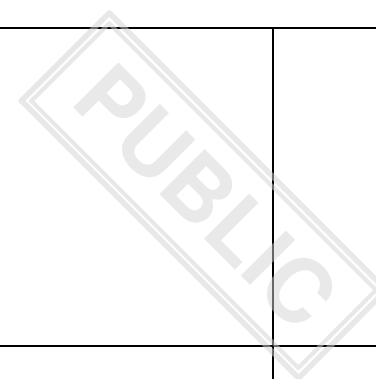


Article 30 to the owner of application equipment in professional use where that equipment complies with the requirements listed in Annex IV; and (b) recorded by that competent authority in the central electronic register of application equipment in professional use referred to in Article 33.		
8. A record as referred to in paragraph 6 shall be valid for three years unless the Member State provides for a different inspection interval pursuant to Article 32.		
9. Each Member State shall recognise a certificate as referred to in paragraph 7 or a record as referred to in paragraph 6 for application equipment in professional use registered in another Member State.		
10. The Commission is empowered to adopt delegated acts in accordance with Article 40 amending this Article and Annex IV in order to take into account technical progress and scientific developments.		



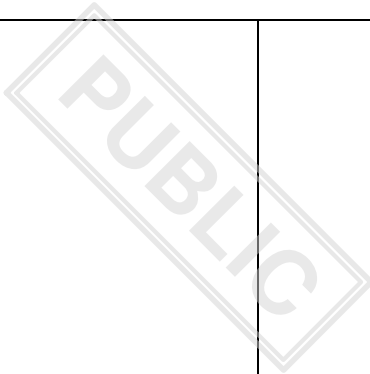
<p>11. Application equipment in professional use inspected in compliance with harmonised inspection standards developed in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council⁵³ shall be presumed to comply with the requirements listed in Annex IV.</p>		
<p>Article 32</p> <p>Member State derogations regarding inspection of application equipment in professional use</p>		
<p>1. A Member State may, after carrying out the risk assessment referred to in paragraph 2, lay down less stringent inspection requirements and provide for different inspection intervals than those set out in Article 31 to application equipment in professional use which represents a very low scale of use estimated by way of the risk assessment referred to in paragraph 2 and which is listed in the national action plan referred to in Article 8.</p> <p>This paragraph shall not apply to the following</p>	<p>1. A Member State may, after carrying out the risk assessment referred to in paragraph 2, lay down less stringent inspection requirements and provide for different inspection intervals than those set out in Article 31 to application equipment in professional use which represents a very low scale of use estimated by way of the risk assessment referred to in paragraph 2 and which is listed in the national action plan referred to in Article 8.</p>	

<p>application equipment in professional use:</p> <p>(a) spraying equipment mounted on trains or aircraft;</p> <p>(b) horizontal boom sprayers which are larger than 3 m, including sprayers that are mounted on sowing equipment which is larger than 3 m wide;</p> <p>(c) vertical sprayer or orchard blast sprayer.</p>	<p>This paragraph shall not apply to the following application equipment in professional use:</p> <p>(a) spraying equipment mounted on trains or aircraft;</p> <p>(b) horizontal boom sprayers which are larger than 3 m, including sprayers that are mounted on sowing equipment which is larger than 3 m wide;</p> <p>(c) vertical sprayer or orchard blast sprayer.</p>	
<p>2. Before laying down less stringent inspection requirements and different inspection intervals as referred to in paragraph 1, a Member State shall carry out a risk assessment on their potential impacts on human health and the environment. The competent authority referred to in Article 30 shall maintain a copy of the risk assessment for control by the Commission.</p>		
<p>3. A Member State may exempt from inspection referred to in Article 31 handheld application equipment or knapsack sprayers, in professional</p>		



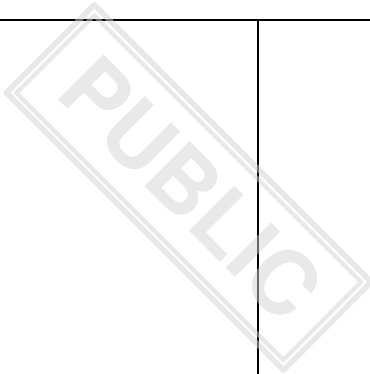
use, based on a risk assessment on their potential impact on human health and the environment, which shall include an estimation of the scale of use. The competent authority referred to in Article 30 shall maintain a copy of the risk assessment for control by the Commission.		
4. Application equipment in professional use that has been exempted from inspection in accordance with paragraph 3 shall not be subject to the requirement to make an entry in the electronic register referred to in Article 29 or the registration requirements referred to in Article 33.		
Article 3 Definitions		
<i>Relevant definitions</i> <i>Please comment on definitions linked to Article 20-28</i> <i>Please insert rows below for the relevant definitions you want to comment on, and indicate clearly in this</i>		

<i>column which definition you are commenting on</i>		
<p>Definition 11</p> <p>‘application equipment in professional use’ means any of the following:</p> <p>(a) application equipment which is used by a professional user for the application of plant protection products;</p> <p>(b) application equipment with horizontal or vertical booms or orchard blast sprayers, irrespective of whether it is being used for the application of plant protection products;</p>	<p>‘application equipment in professional use’ means any of the following:</p> <p>(a) application equipment which is used by a professional user for the application of plant protection products;</p> <p>(b) application equipment with horizontal or vertical booms or orchard blast sprayers, irrespective of whether it is being used for the application of plant protection products;</p>	
<p>ANNEX IV</p> <p>INSPECTION OF APPLICATION EQUIPMENT IN PROFESSIONAL USE</p>		<p>A reference to the ISO EN 16122 series should be inserted into Annex IV</p>
<p>The inspection of application equipment in professional use shall cover all aspects important to ensure a high level of safety and protection of human health and the environment. Full effectiveness and safety of the application operation shall be ensured by proper performance</p>		



of any device or apparatus of the equipment to guarantee the following objectives are met. The application equipment in professional use shall function reliably and be used only in accordance with its manual of operation for its intended purpose ensuring that plant protection products can be accurately applied in line with good agricultural practice (GAP) as defined in Article 3(2), point (a), of Regulation (EC) 396/2005 of the European Parliament and the Council²¹. The equipment shall be in such a condition to allow it to be filled and emptied safely, easily and completely and to prevent any leakage of either spray solution or concentrated product. It shall permit easy and thorough cleaning. It shall also allow for safe operation, and be capable of being immediately stopped from the position of the operator. It shall be simple to perform any necessary adjustments. Such adjustments shall be accurate and capable of being reproduced.

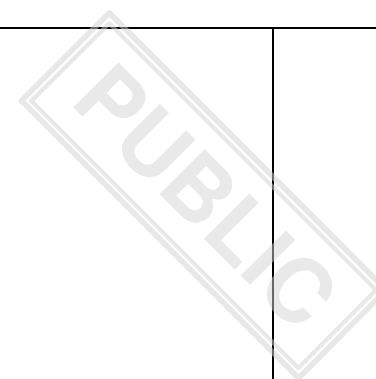
During inspection, compliance with the following requirements shall be checked



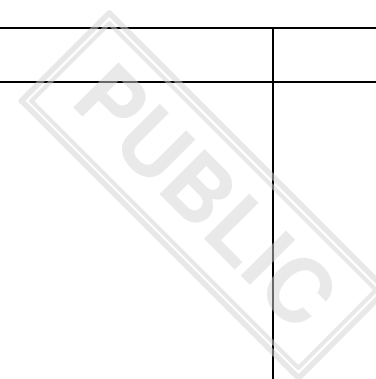
1. Safety

The equipment shall be clean and safe before the inspection starts. The following shall be checked:

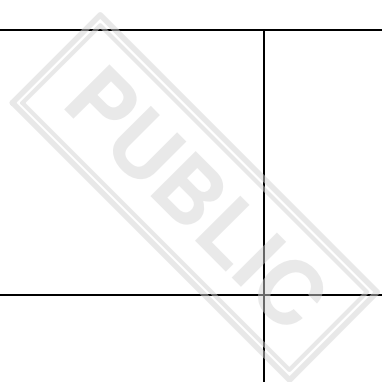
- the power take off driveshaft guard and all protective devices for the power take off and other rotating power transmission parts,
- leakage from the hydraulic system and general condition of hydraulic cylinders and pipes,
- safety and functioning of all electrical parts, including solenoid switches,
- functioning of safety valves,
- condition of structural parts, framework, and booms/nozzle holders,
- locking of foldable parts, and
- in the case of any equipment that uses air assistance, the guards and condition of the blower, including the physical condition of the blower unit, fan and sleeves.



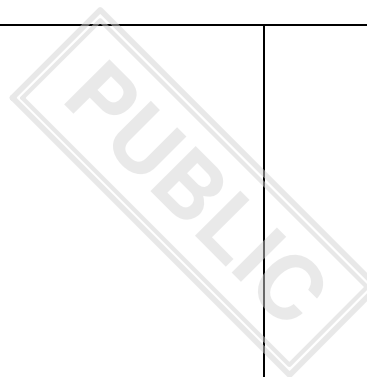
<p>2. Leakage</p> <p>Both in stationary and working conditions there shall be no leakage or dripping from any part of the equipment. There shall be no dripping or unintended application after the equipment has been switched off. For equipment to apply liquid products there shall be no leakages from pipes or hoses when running at the maximum obtainable pressure for the system and no liquid shall have been applied directly to the sprayer itself.</p>		
<p>3. Pump (for equipment used to apply liquid products)</p> <p>The pump capacity shall be suited to the needs of the application equipment and the pump shall function properly in order to ensure a stable and reliable application rate.</p>		
<p>4. Agitation or mixing (for equipment to apply liquid products)</p> <p>Agitation or mixing devices shall ensure a proper recirculation in order to achieve an even concentration of the whole volume of the liquid</p>		



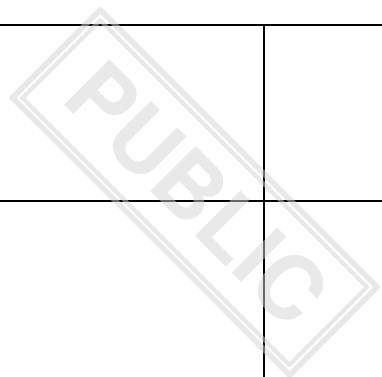
spray mixture in the tank.		
<p>5. Spray liquid tank/hopper</p> <p>Spray tanks and hoppers including filling level indicators, filling devices, filters, emptying and rinsing systems and mixing devices shall operate in such a way as to minimise accidental spillage, uneven concentration distribution, operator exposure and residual content.</p>		
<p>6. Measuring systems, control and regulation systems</p> <p>All devices for measuring, switching on and off and adjusting pressure or flow rate shall be properly calibrated and work correctly. The controls to be operated during the application operation shall be operable from the operator's position, the necessary instruments to control the operation shall be present and accurate and the instrument displays shall be readable from the operator's position. For equipment to apply liquid products, pressure adjustment devices shall maintain a constant working pressure at constant</p>		



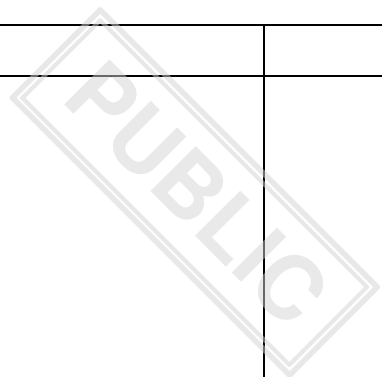
revolutions of the pump, in order to ensure that a stable volume application rate is applied. Additional equipment to dose or inject plant protection products shall function accurately and correctly.		
7. Pipes and hoses Pipes and hoses shall be in properly functioning condition to avoid disturbance of product flow or accidental spillage in case of failure. Pipes and hoses shall not be kinked, excessively worn or in a position which would allow stretching.		
8. Filtering (for equipment to apply liquid products) In order to avoid turbulence and heterogeneity in spray patterns, filters shall be present and in good condition and the mesh size of the filters shall correspond and be appropriate to the size of nozzles fitted on the sprayer. Where applicable the filter blockage indication system shall operate correctly.		
9. Spray boom (for equipment applying plant		



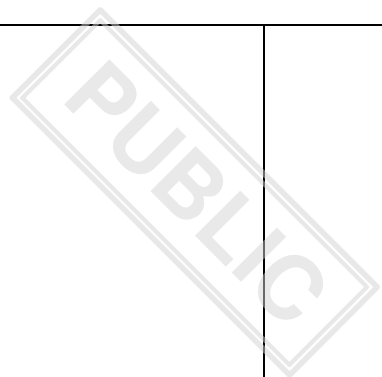
<p>protection products by means of a horizontally or vertically positioned boom, located close to the crop or the material to be treated)</p> <p>The boom shall be in good condition and stable in all directions. The fixation and adjustment systems and the devices for damping unintended movements and slope compensation shall work correctly.</p>		
<p>10. Nozzles (for equipment to distribute liquid products)/ outlets (for solid products)</p> <p>Nozzles and outlets shall work properly. The flow rate of each individual nozzle and outlet shall not deviate significantly from the data of the flow rate tables provided by the manufacturer.</p>		
<p>11. Distribution</p> <p>Where relevant, the longitudinal, transversal and vertical (in case of applications in vertical crops) distribution of the product in the target area shall be even.</p>		
<p>12. Blower (for equipment distributing plant</p>		



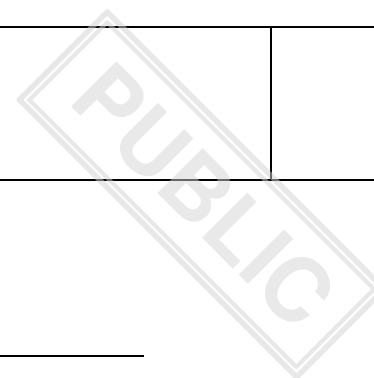
protection products by air assistance) The blower shall be in good condition and shall ensure a stable and reliable air stream.		
13. Cleaning If present, the rinsing/cleaning systems for emptied containers, e.g. fitted on induction hoppers of application equipment, shall work reliably. Moreover, if provided, tank cleaning devices, devices for external cleaning, devices for cleaning of induction hoppers and devices for the internal cleaning of the complete application equipment shall function correctly.		
ANNEX V NOTIFICATION FORM		
Reason for notification (Please tick) <ul style="list-style-type: none">- New equipment or first registration of used equipment- Change of ownership- Removal from use		



- Return to use		
Current owner - Name: - Unique personal / company identifier: (Tax Number) - Address 1 - Address 2 - Address 3 - Address 4 - Occupation: (Farmer, Landscaper, Contractor, other please specify) - Country:		
Previous owner if applicable - Name: - Address 1: - Address 2: - Address 3: - Address 4: - Country:		
Pesticide application equipment type (Please tick most appropriate)		



<ul style="list-style-type: none">- Boom sprayer- PPP application equipment which produces droplets and which uses a fan to distribute these droplets vertically and/or laterally- Fogger (cold & hot)- Seed dresser- Granule applicator- Vapour generator- Vertical sprayer- Aircraft (winged)- Aircraft (rotor)- Unmanned aircraft (e.g. drone)- Handheld application equipment- Other (Please describe)		
Is equipment air assisted?		
Is equipment fitted with GPS controlled nozzle or section shut off?		
<p>Pesticide application equipment</p> <ul style="list-style-type: none">- Make:- Model:- Chassis No.:- Tank/hopper capacity:		



- Manufacture year:		
- Working width:		
- Other information:		
