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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 Portugal

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

Member State: PORT	TUGAL
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Commission proposal (SUR)	Drafting Suggestions	Comments
CHAPTER VIII		
APPLICATION EQUIPMENT		
Article 29		
Electronic register of application equipment		
in professional use		
1. By [OP please insert the date = first day		The provision should allow for the inspection
of the month following 9 months after the date		body to register the equipment in the eletronic
of entry into force of this Regulation], an owner		register also and not exclusively the owner of
of application equipment in professional use		the equipment.
shall enter the fact that he or she is the owner of		MS already have systems in place for the
the application equipment in the electronic		inspection of equipments but not necessarily for
register of application equipment in professional		an eletronic register. The development of the

use referred to in Article 33, using the form set	eletronic register may be costly and timely. The
out in Annex V, unless the Member State in	proposal for entry into force should reflect this.
which the owner uses the equipment has	Nine months may not be sufficient.
exempted that equipment from inspection in	
accordance with Article 32(3).	
2. If application equipment in professional use is	No need to duplicate the records made by the
sold, the seller and the buyer shall enter the fact	seller and the buyer as long as the equipment is
of the sale, within 30 days after the sale, in the	already registered in the eletronic register and
electronic register of application equipment in	has an ID number.
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 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.

3. If **an** application equipment in professional use is withdrawn from use and is not intended to be used again, its owner shall, within 30 days without undue delay and at least before the applicable inspection deadline 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.

This provision of 30 days after withdrawal of use in not possible to control or enforce.

It should be clear that the intention of no further use is also linked to no intention to be sold or transferred to another owner.

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.

4. If an 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. The equipment shall be inspected within 30 days after having been included in the electronic register unless it was successfully inspected in the last three years before use withdrawal from the electronic register.

There is a risk that the professional use will withdraw the equipment from the register just to skip the date of inspection. We see no need to forsee this provision unless there is an obligation that the equipment is inspected before use.

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		
 Each Member State shall designate one or more competent authorities to: (a) establish and maintain a central electronic 	 Each Member State shall designate one or more competent authorities to: (a) establish and maintain a central electronic 	It should be foreseen that MS may have a system in place that alows the certification or licencing of public or private Inspection shops that carry out the inspection of the application
register to record information on all application equipment in professional use in the Member State;	register to record information on all application equipment in professional use in the Member State;	equipments under the supervision of the competent authority.
(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;	(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;	
(c) inspect, or oversee the inspection of, application equipment in accordance with	(c) inspect, or oversee the inspection of, application equipment in accordance with	

Article 31(1), (2), (3) and (6);	Article 31(1), (2), (3) and (6);	
(d) issue, or oversee the issuing of, certificates	(d) issue, or oversee the issuing of, certificates	
of inspection in accordance with Article 31(7).	of inspection in accordance with Article 31(7).	
Where the designated competent authority does not carry out the inspection of application equipment in professional use, it shall designate one or more bodies to carry out such inspections.	Where the designated competent authority does 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.		

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.	
4. The Commission shall: (a) prepare a draft report on the findings and on recommendations addressing the shortcomings identified by its experts during these controls; (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; (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;	

(d) make publicly available the final report referred to in point (c) and the comments of the Member States referred to in point (b). Article 31		
Inspection of application equipment in		
professional use		
1. The competent authority referred to in Article	1. The competent authority referred to in Article	
30 or a body designated by it shall inspect	30 or a body or bodies designated or licensed	
application equipment in professional use every	by it shall inspect application equipment in	
three years, starting from the date of first	professional use every three years, starting from	
purchase. The competent authority shall ensure	the date of first purchase. The competent	
that there is sufficient staff, equipment and other	authority or designated body or bodies shall	
resources necessary for the inspection of all	ensure that there is sufficient staff, equipment	
application equipment due for inspection, within	and other resources necessary for the inspection	
the three year cycle.	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.

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.

In order to minimize the risk of pollution and water contamination during inspection the owner of the application equipment in professional use shall ensure that the application equipment is clean and safe before the inspection starts.

The application equipment must be properly cleaned before inspection so that the risk of soil or water contamination is low. Equipments that are not properly cleaned sould be rejected at inspection. In this circumtance we see no need to keep point 3. This point should be moved to point 5 below.

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.

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.

The influence of external conditions on the

This point should be moved to point 5 below.

5. The owner of the application equipment in professional use shall ensure that the application equipment is clean and safe before the inspection starts.	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. 5. The owner of the application equipment in professional use shall ensure that the application equipment is clean and safe before the inspection starts. 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.	This point should be moved to point 4 above.
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.	6. The results of each inspection for which application equipment in professional use passes the test is favourably assessed shall be recorded by the competent authority inspection body 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:	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. 	 (a) issued by the competent authority or inspection body 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 or inspection body in the central electronic register of application equipment in professional use referred to in Article 33. (c) The date and result of the inspection as included in the Certificate shall be recorded in the electronic register. 	
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.	8. A record The Certificate of inspection as referred to in paragraph 6-7 shall be valid for three years from the date of inspection 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.	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.	The MS will not have access to the eletronic register in another MS.
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.	10. The Commission is empowered to adopt delegated acts in accordance with Article 40 amending this Article, and Annex IV and V in order to take into account technical progress and scientific developments.	
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 Council shall be presumed to comply with the requirements listed in Annex IV.		
Article 32 Member State derogations regarding inspection of application equipment in		

professional use	
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.	
This paragraph shall not apply to the following	
application equipment in professional use:	
(a) spraying equipment mounted on trains or	
aircraft;	
(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;	
(c) vertical sprayer or orchard blast sprayer.	

- 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.
- 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.
- We see no need to keep the last sentence as the risk assessment and reasoning for exempting certain equipments from inspection will be included in the National Action Plan as referred to in point 1

- 3. A Member State may exempt from inspection referred to in Article 31 handheld application equipment or knapsack sprayers, in professional 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.
- 3. A Member State may exempt from inspection referred to in Article 31 handheld application equipment or knapsack sprayers, in professional 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.

We would prefer that the risk assessment for handheld equipment and knapsak sprayers is carried out at EU level, in line with the proposed approach to derrogating unmanned aircrafts (drones) and identifying the conditions/factors that may be considered for the purpose of concluding that the equipments represent a low potential impact on human health and the environment based on e.g. number of equipments placed on the market every year, operacional field capacity (ha/day)), cost efficient threshold cropping surface area to be treated with these equipments, etc.

		In the event of maintaning this point as proposed we see no need to keep the last sentence as the risk assessment and reasoning for exempting certain equipments from inspection will be included in the National Action Plan as referred to in point 1.
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 33	Article 33	Same title as of Article 29
Electronic register of application equipment	Electronic register records of inspection of	
in professional use	application equipment in professional use	
1. Each competent authority designated by a	1. Each competent authority or inspecting body	Is is foreseen that the COM will financially
Member State pursuant to Article 30 shall	designated by a Member State pursuant to	support the development of the eletronic register
establish and maintain a central electronic	Article 30 shall establish and maintain a central	by MS?

register to record:	electronic register to record in the electronic	
(a) information entered by third parties pursuant	register the following:	
to Article 20(2), point (b)(i), and Article 29;	(a) information entered by third parties pursuant	Article 20(2) point (b)(i) does not exist. To be
(b) records of inspections and certificates as set	to Article 20(2), point (b)(i), and Article 29;	clarified which is the correct provision
out in Article 31(6) and (7)(b);	(b) records of inspections and certificates as set	
(c) other information as set out in paragraph 2	out in Article 31(6) and (7)(b);	
on application equipment in professional use in	(c) other information as set out in paragraph 2	
its Member State that has not been exempted	on application equipment in professional use in	
from inspection under Article 32(3).	its Member State that has not been exempted	
	from inspection under Article 32(3).	
2. The competent authorities referred to in	2. The competent authorities or inspection	
Article 30 shall, at the time of inspection, record	bodies referred to in Article 30 shall, at the time	
the following information:	of inspection, record the following information:	
(a) the name of the body carrying out the	(a) the name of the body carrying out the	
inspections;	inspections;	
(b) the unique ID of the application equipment,	(b) the unique ID of the application equipment,	
if available;	if available ;	
(c) the date of manufacture, if available;	(c) the date of manufacture, if available;	
(d) the name and address of the current owner;	(d) the name and address of the current owner;	

- (e) where there has been a transfer of ownership, the date of each transfer and the name and address of previous owners within the last five years;
- (f) the tank size;
- (g) the width of the horizontal spray boom, if applicable;
- (h) the nozzle type(s) present on the application equipment at the time of inspection;
- (i) in the case of boom sprayers, whether section and/or nozzle control through geospatial localisation technology is present or absent on the application equipment;
- (j) for equipment older than three years, the date of each inspection carried out in accordance with Article 31;
- (k) whether the application equipment passed or failed each inspection carried out under Article 31;

- (e) where there has been a transfer of ownership, the date of each transfer and the name and address of previous owners within the last five years;
- (f) the tank size;
- (g) the width of the horizontal spray boom, if applicable;
- (h) the nozzle type(s) present on the application equipment at the time of inspection;
- (i) in the case of boom sprayers, whether section and/or nozzle control through geospatial localisation technology is present or absent on the application equipment;
- (j) for equipment older than three years, the date of each inspection carried out in accordance with Article 31;
- (k) whether the application equipment passed or failed each inspection carried out under Article 31;

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	(I) 4b	
(l) the reasons for any failed inspection.	(l) the reasons for any failed inspection.	
3. Where application equipment does not bear a	3. Where application equipment does not bear a	
unique ID as referred to in paragraph 2, point	unique ID as referred to in paragraph 2, point	
(b), the competent authorities referred to in	(b), the competent authorities or inspection	
Article 30 shall supply a unique ID.	body referred to in Article 30 shall supply a	
	unique ID.	
Article 3		
Definitions		
Relevant definitions		
Please comment on definitions linked to Article 20-		
28		
Please insert rows below for the relevant definitions		
you want to comment on, and indicate clearly in this		
column which definition you are commenting on		
(10) 'application equipment' means any	(10) 'application equipment' means any	
equipment the use of which for the	equipment used or intended to be	
application of a plant protection	used the use of which for the	
product is reasonably foreseeable at the	application of a plant protection	

	time of manufacture and accessories that are essential for the effective operation of such equipment, with the exception of equipment designed for the sowing or planting of propagating material treated with plant protection	product is reasonably foreseeable at the time of manufacture and accessories that are essential for the effective operation of such equipment, with the exception of equipment designed for the sowing or planting of propagating
	products;	material treated with plant protection products;
(11)	 'application equipment in professional use' means any of the following: (a) application equipment which is used by a professional user for the application of plant protection products; 	(11) 'application equipment in professional use' means any of the following: (a)application equipment which is used by a professional user for the application of plant protection products;
	(b) application equipment with horizontal or vertical booms or orchard blast sprayers, irrespective of whether it is being	(b) application equipment with horizontal or vertical booms or orchard blast sprayers, irrespective of whether it is being

used for the application of plant	used for the application of plant	
protection products;	protection products;	
ANNEX IV		
INSPECTION OF APPLICATION		- "//
EQUIPMENT IN PROFESSIONAL USE		
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		
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.	
2. Leakage	
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.	

3. Pump (for equipment used to apply liquid products) 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.	
4. Agitation or mixing (for equipment to apply liquid products) Agitation or mixing devices shall ensure a proper recirculation in order to achieve an even concentration of the whole volume of the liquid spray mixture in the tank.	
5. Spray liquid tank/hopper 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.	
6. Measuring systems, control and regulation	

systems	
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	
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	
protection products by means of a horizontally or	
vertically positioned boom, located close to the	
crop or the material to be treated)	
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.	
10. Nozzles (for equipment to distribute liquid	

products)/ outlets (for solid products) 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.	
11. Distribution	
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.	
12. Blower (for equipment distributing plant	
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	The form for notification should focus on data
NOTIFICATION FORM	relating to the equipment and its identity
THE	number (ID); the last inspection date and results
	(Approved/non approved) should be included.
Reason for notification (Please tick)	
- 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)	
- 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?		
Pesticide application equipment	Pesticide application equipment	
- Make:	- Make:	
- Model:	- Model:	
- Chassis No.:	- Chassis No.:	
- Tank/hopper capacity:	- Tank/hopper capacity:	
- Manufacture year:	- Manufacture year:	
- Working width:	- Working width:	
- Other information:	- Last inspection date://	
	- Approved/non-approved in inspection	
	- Identification Number (applicable/non	
	applicable);	
	- Other information:	