

Annex II D: Country Report Denmark

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Part A

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Introduction

The Danish Environmental and Agricultural legislation has since the end of the 1980s included a comprehensive set of rules for control and regulation of the environmental impact of agriculture. This set of rules has been enlarged and made more stringent during the 1990s and has recently been changed mainly in order to fulfil the requirements of the nitrate directive, however also in order to adjust to and fulfil national environmental objectives. These changes are therefore not a consequence of the Agenda 2000 reform and its demand of linking environmental standards etc. to the payment of agricultural support.

Regulation 1259/1999

According to the EC Regulation 1259/1999 Denmark first decided to implement cross-compliance on arable area payment and livestock premium in the beef sector by means of attaching environmental conditions, as set out in existing national legislation. However, of political reasons the use of cross-compliance has been dropped again by 1 of April 2002.

Conditions for payments under the arable area payment scheme included compliance with the rules of:

- 2 metre non-cultivated zones along rivers and lakes
- Field and fertilisation plans (see next section for a detailed description of the rules)

The sanction for the 2 metre non-cultivated zones was a reduction of the payment equaling the subsidy for one ha of cereal. Non-compliance with the rules of field and fertilisation plans resulted in a reduction of the subsidy of up to 6%.

Conditions for animal premium were compliance with the rules of:

- Fertilisation account
- Fertilisation balance (see next section for a detailed description of the rules)

A missing submission of the fertilisation account resulted in an annulment of the animal premium. For the fertiliser balance a 5% excess of the balance resulted in a reduction of the animal premium. The premium was reduced with the percent equalling the percent of excess.

In the year 2001 341 applicants out of 50,000 applicants (0.7%) breached the rules concerning the 2 metre non-cultivated zones and the field and fertilisations plans. These breaches resulted in a return of subsidies of 807,115 dkk. 333 of the breaches concerned the rules of the 2 metre non-cultivated zone.

For the animal premium the deadline for the submission of the fertilisation account for the year 2000 was the 31 of March 2001. If this deadline was outrun the payment was kept back until the account was received and controlled. If the account was not submitted before the first of June 2001 the whole animal premium of the farmer was dropped. Before the last deadline all the farmers received two reminders. 1747 farmers got a reminder and 156 (0.5%) got their animal payment hold back. There were in total 30,000 applicants. In total 1.7 mills. dkk were hold back. 16 farmers had their premium reduced because of breaches of the rules concerning the fertilisation balance.

These breaches resulted in a reduction of the subsidy of 7-100%.

GFP in relation to RPD (Reg. EC 1257/1999)

Rules of GFP used under the Less Favoured Area support schemes (article 14) and the Agri-environmental schemes (article 23) refer to existing national legislation and include rules concerning the environment, hygiene and animal welfare. In the following, only requirements regarding the environment will be described. These environmental requirements include that:

- 1) The consumption of nitrogen on the farm may not exceed the nitrogen quota given for the farm (Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings, chapter 2)
- 2) A plant cover of 65% must be established during autumn and winter time in accordance with the rules (Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings, 2002, chapter 3)
- 3) Field plans must be prepared in accordance with rules (Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings, § 21)
- 4) Fertilisation plans and accounts must be prepared in accordance with rules (Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings, §21-22)
- 5) Catch crops must be laid out after ordinary harvest in accordance with the rules (Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of

vegetation in agricultural holdings and Ministerial Order No. 690 of 17 July 2001 on the use of fertilisers and cover of vegetation in agricultural holdings for the planning period 2001/2002)

- 6) A record must be made of the pesticides used in accordance with the rules (Ministerial Order No 492 of 7 June 1994 on spraying journals and inspection of spraying equipment in the agriculture, §1-4)
- 7) The animal husbandry must be in accordance with rules (Ministerial Order No. 609 of 15 July 2002 on commercial livestock holdings, manure, silage etc., § 28)
- 8) A control of containers etc. for the storage of liquid manure should have been carried out (Ministerial Order No. 723 of 12 September 1997 on inspection of containers for liquid manure, sap from silage, or waste water, §9)
- 9) A supplementary control should have been carried out if the ordinary control has demonstrated lack of tightness and strength of the container (Ministerial Order No. 723 of 12 September 1997 on inspection of containers for liquid manure, sap from silage, or waste water, §9)
- 10) Waste products have to be kept (stored) in accordance with rules (Ministerial Order No. 49 of 20 January 2000 on the use of sludge etc. in the agriculture, § 13)
- 11) Field and fertilisation plans including maps that show areas for spreading of manure and sludge etc. have to be sent to the municipality council, and the use of waste product on agricultural land has to be done in accordance with the rules concerning the amount of nutrients to be applied (Ministerial Order No. 49 of 20 January 2000 on the use of sludge etc. in the agriculture, § 16, 1 and 2)
- 12) Application of waste products has to be in accordance with rules (Ministerial Order No. 49 of 20 January 2000 on the use of sludge etc. in agriculture, § 17, 1 and 2)
- 13) Cultivation, digging, planting, changing of terrain, placement of fences, and erection of buildings is not allowed in borders of 2 metres along natural or regionally targeted watercourses and lakes (Consolidated Act 632 of 23 June 2001 on watercourses)

The first 7 items are compulsory for all measures under article 14 and 23 in Reg. EC 1257/1999, however items 7-12 are only compulsory for the measure “subsidy for green account (farm audit)” implemented under article 23.

For the 7 compulsory items verifiable standards have been defined and they are all controlled by the Danish Plant Directorate, a body within the Ministry of Agriculture, Food and Fishery, which is the paying authority according to article 14 and 23 of regulation 1257/1999. For the remaining items no verifiable standards in relation to the RDP have been defined and they are not subject to a 5% on-the-spot-inspection as well as the control body (in most cases the municipalities) is not obliged to report back to the Ministry of Agriculture, Food and Fishery of any breaches. However, farmers still have to observe the rules, and the relevant authorities undertake control and impose possible sanctions.

The Directorate for Food, Fisheries and Agri Business under the Ministry of Agriculture, Food and Fishery controls that all applicants according to the RDP have observed the verifiable standards (through a consultation procedure with the Danish Plant Directorate). In cases of breaches of the legislation in a specified period previous to the date of application, the applications will be rejected.

If standards are not observed during the contract period and this is discovered during an on-the-spot inspection, the farmer will be sanctioned according to the relating legislation.

For most of the non-verifiable rules the municipalities are the control body of the legislation and the control is done through “environmental inspections”. There exists a comprehensive guideline as well as regulations on how to do the inspection, however it is the municipalities (275 in Denmark) who decide on how to implement the inspection in practice. This means that there can be a considerable variation in how the inspection is done and how often. In principle all aspects of the relevant environmental legislation are included in the inspection, which may last for hours especially if it is the first environmental inspection on the farm. A report is made of the inspection. A part of the inspection is done through a kind of conversation with the farmer concerning any problems related to the compliance of the rules and the requirements.

As it appears from the above-mentioned GFP items, most of them concern the control of fertilisers and nutrients in agriculture. However, the item 13 also concerns the conservation of soil and item 6 concerns the use of pesticides.

In the following the details of the rules of GFP are described under the headlines: 1) Use of fertiliser, slurry and manure, 2) Pesticide Use and 3) Soil Conservation. The descriptions include: The name of the law, which include the rule of GFP, objectives and main components of the law, its link to relevant EU-regulations, the content of the rule of GFP, how the rule is controlled and by whom, verifiable standards and penalties. Where statistics concerning the control and penalty is published the main results are mentioned.

Use of fertiliser, slurry and manure

Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings (Ministry of Food, Agriculture and Fishery)

Objective of the law: to regulate the use of fertiliser in agriculture with the specific intention to limit leaching of nitrate

Main components of the law:

- It is possible for certain farmers with an annual income of more than 20,000 dkk to be registered. However, registration is obligatory for certain farmers with an annual income of more than 20,000 dkk who fulfil at least one of the following conditions:
 - - The farm has more than 10 livestock units.
 - - The livestock density exceeds 1 livestock unit per hectare.
 - - The farm receives more than 25 tons of manure or other organic manure in the planning period.
- A maximum quota of nitrogen at farm level is defined.
- A plant cover must be established on 65% of the cultivated area or on area set-aside on the farm.
- For each planning period the farmer is obliged to work out field and fertilisation plans.
- For each planning period the farmer is obliged to work out a fertilisation account.
- A system for registration of trading in manure and fertilisers is established.

Relation to EU-legislation: This law implements part of the nitrate directive. In Denmark the whole territory has been designated as a nitrate vulnerable zone implying that an action programme should be established for the whole vulnerable zone. Regarding the annex 3 of the nitrate directive this action programme must include rules on spreading and application of fertiliser and manure, rules of storage capacity, a fertiliser account securing a balance between the in- and out-put of nitrogen etc. and a maximum limit for application of manure of 170 kg/ha.

The nitrate directive is implemented by this law (Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings) and by Ministerial Order No. 609 of 15 July 2002 on commercial livestock holdings, manure, silage etc., which will be described below.

Ministerial Order No. 690 of 17 July 2001 on the use of fertilisers and cover of vegetation in agricultural holdings for the planning period 2001/2002 (Ministry of Food, Agriculture and Fishery)

Main components of the law:

- requirements regarding the registration of certain farmers
- description of the maximum quota of nitrogen for each specific crop
- rules on how to calculate the maximum quota of nitrogen
- rules on how to make an account of the quota of nitrogen and the use of nitrogen etc, when selling a farm
- rules concerning catch crops
- requirements on working out field and fertilisation plans as well as fertilisation accounts
- requirements concerning suppliers of manure

Rule of GFP (1): The total consumption of nitrogen (for fertiliser purpose) on the farm may not exceed the nitrogen quota given for the farm.

The nitrogen quota has to be calculated as the sum of the quotas for the single fields. Calculation of quotas for the single fields should be based on the size of the single field, the crop, crops cultivated in the previous season and the nitrogen quota for the crop in question taking into account the local climate zone and soil quality. The nitrogen quota has to be corrected according to the nitrogen prognosis of the planning period (running from 1 of August to 31 of July). The total consumption of nitrogen includes animal manure (solid and liquid), manufactured manure and fertiliser.

Rule of GFP (2): A plant cover of 65% must be established during autumn and wintertime in accordance with the rules.

On 65% of the cultivated farm area or area set-aside a plant cover must be established during autumn and winter. A list of eligible crops is mentioned in the law – mainly crops with a long growing season or winter crops.

Rule of GFP (3): Field plans must be prepared in accordance with rules.

A field plan has to be worked out showing what is to be grown on the single field in the planning period including where to have the 6% of catch crops and the 65% plant cover. The plan concerning the plant cover demand has to be fulfilled before the 1 of September for the planning period in question. The remaining part of the field plan has to be fulfilled at least the following 31 of March.

Rule of GFP (4): Fertilisation plans and accounts must be prepared in accordance with rules.

A fertilisation plan has to be made not later than the 31 of March, showing the expected nitrogen demand for the whole farm as well as the nitrogen and phosphorus demand for the single fields (this is the only passage where other nutrients than nitrogen are mentioned). This nitrogen demand is called the nitrogen quota of the farm and has to be calculated as described earlier. The plan can be changed during the planning period, however it has to be stated in the plan and not later than 7 days after the changes have been made.

The fertilisation account has to be based on the field and the fertilisation plans. It has to be made not later than the 31 of March, the year after the fertiliser plan has been made, and it has to be signed by the farmer and sent to the Ministry of Agriculture, Food and Fishery.

It has to show:

- the total nitrogen quota of the farm
- the farms total consumption of fertiliser (including both organic and inorganic fertiliser) in the planning period in question
- the size of the livestock holding made up in livestock units and the total farm area with its demand of fertiliser
- the size of the area where the plant cover and where catch crops have been established
- information on agreements made on the farm concerning leasing of land for the spreading of manure etc.

Rule of GFP (5): Catch crops must be laid out in accordance with the rules

On at least 6% of the cultivated farm area or area set-aside catch crops have to be established, which may not be ploughed etc. before 20 October and the area may not be sown again before spring next year. It is possible to fulfil 20% of plant cover demand by ploughing down straw from cereals and rape.

Control and enforcement: All the above-mentioned items are controlled by the “Danish Plant Directorate”, a national body also responsible for the inspection of such as animal food, seed, fertiliser etc. The body is a directorate under the Ministry of Food, Agriculture and Fishery. 6 regional departments perform the control. The Danish Plant Directorate is also the enforcement agency.

The control includes an administrative control of the submitted field plans and fertilisation plans/accounts and a physical control on the farm. The physical control is based on on-the-spot checking of about 3-5 % (1600-1800 farms) of all farms (60.000). The plans/accounts are controlled through paper work, however the demand of catch crops is also controlled in the field.

The administrative control and the on-the-spot inspection include:

- - the quota of nitrogen
- - the consumption of nitrogen (the balance of the fertilisation account)
- - the plant cover (65% requirement)
- - the field plan
- - the fertilisation plan (contents and submission)
- - the fertilisation account (contents and submission)
- - the catch crop (6% requirement)

These standards make up the verifiable standards in the Rural Development Programme and it is also these standards, which are used for the national control of the legislation.

Penalty: Fine. For a break of rules concerning field plans and fertiliser plans the fine is about 2000 dkk (270 Euro). If the rule concerning the nitrogen balance is broken and the farmer has exceeded the nitrogen quota given for the farm then the fine will be increased based on the amount of nitrogen going beyond the quota of the farm. Until now fines have been imposed between 6000 dkk (808 Euro) and 50.000 dkk (6760 Euro).

Statistics: In the planning period 1999/2000, 239 farms (14%) out of the 1753 tested had faults in their fertilisation accounts. Of these, 33 (2%) resulted in reporting to the police, whereas the rest was told to improve their accounts. In addition 701 field plans and 181 fertilisation plans (budgets) were inspected. Out of the 701 field plans, 59 (9%) were found to be incorrect mostly because they were too late, but 15 cases turned into a police reporting. Concerning the 181 fertilisation plans, in 38 cases (21%) farmers were told to comply with the regulation. More recent statistics have not yet been published.

It has not been disclosed how many farmers with an agreement under the Rural Development Programme have been breaching the standards. About 12,000 farmers have received payment under the agri-environmental scheme.

Regulation on commercial animal husbandry, manure, silage etc, no 604 July 2002 (Ministry of Environment)

Objective of the regulation: to limit pollution and inconvenience of animal production, including production, storage and use of manure and slurry and silage

Main components of the law:

- requirements regarding the location of animal husbandry (where it is allowed or not and distance to neighbours etc.)

- requirements regarding the distance from stables, slurry containers etc. to water-courses, lakes, water catchment areas, roads, dwellings etc.
- requirements regarding the construction and arrangement of stables etc.
- rules on the capacity for storage of manure etc. (9 months)
- rules on the storage of solid and liquid manure and other organic material used for fertilising
- rules on the construction of drains and outlets
- rules on maintenance of storage facilities
- rules on use of manure etc., e.g. definition of periods where distribution may take place. Liquid manure may in general only be applied in the period from 1 February to harvest.
- regulation of the number of livestock units and the size of the agricultural area, the so-called “Harmony rules”. The order lays down standards for livestock density.

Relation to EU-legislation: see above under Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings

Rule of GFP (7): The animal husbandry must be in accordance with rules of “harmony” The amount of manure (solid or liquid) applied per hectare per year may not exceed what corresponds to 1.4 animal units. However, for farms with cattle, goats, sheep and poultry and fur farms, manure (produced on the farm) corresponding to 1.7 animal units may be applied. For pure cattle farms manure corresponding to 2.3 animal units may be applied.

If the farmer has less land available on his farm than required for the spreading of manure produced on the farm, a written contract may be signed, which secures that the surplus of manure can be sold or delivered to another farm, a biogas plant etc.

Control and enforcement: The harmony rules are controlled by the Danish Plant Directorate in connection to their control of the field and fertilisation plans and the fertilisation account. The control includes an administrative control of the fertilisation account and a physical control on the farm. The physical control is based on on-the-spot-checking of about 5 % of all farms. The enforcement agency are the local authorities (the municipalities).

The administrative control and the on-the-spot inspection include:

- The number of livestock units and the size of the agricultural area

Penalty: Normally a fine. However, if the break of the law is intentional and has resulted in or may result in environmental damage, or the farmer has had financial benefit out of the breaching of the law the penalty may be imprisonment of up to 2 years.

Statistics: 786 farms were controlled in 1999. 110 (14%) were told to correct their faults and comply with the regulation. 33 cases (4%) are under investigation and most of them will result in a police reporting.

Ministerial Order No. 723 of 12 September 1997 on inspection of containers for liquid manure, seepage from silage, or waste water (Ministry of Environment)

Objective of the regulation: to establish control measures for the control of containers etc. for the storage of liquid manure, including a registration measure for the inspectors

Main components of the law:

- For containers with a capacity of more than 100 m³ an inspection is required every 10 years.
- If the time of construction of a container cannot be established, the enforcement agency can decide to carry out an additional inspection.
- If there is any doubt about the strength or tightness of the container with a capacity under 100 m³ the enforcement agency can decide to carry out an additional inspection.
- Instead of going through an inspection the user of the container can decide to put the container out of action.
- The order contains detailed rules regarding the content and the scope of the inspection.
- The order lays down detailed rules regarding assignment and withdrawal of authorizations.

Rule of GFP (8+9): A control of containers etc. for storage of liquid manure should have been carried out. A supplementary control should have been carried out if the ordinary control has demonstrated lack of tightness and strength.

This rule states that farmers, which take part in the subsidy scheme for green accounts have to make sure that he/she has had a registered inspection of containers etc. for the storage of liquid manure at least every 10 years if the container has a capacity of more than 100 m³. The control has to be done on the expense of the farmer and the farmer has to ask for the inspection half a year before 10 years are over. If there is any suspicion concerning the tightness and strength of the container a supplementary control/examination has to be done on the expense of the farmer and it is the duty of the

farmer to make sure that the inspections is done or to decide about the ending of the use of the container.

Control and enforcement: The municipality council is the control and enforcement body.

Penalty: Fine, or if the break of the law is intentional and has resulted in or may result in environmental damage , or the farmer has had financial benefit out of the breaching of the law the penalty may be imprisonment of up to 2 years.

Ministerial Order No. 49 of 20 January 2000 on the use of sludge etc. in agriculture,
(Ministry of Environment)

Objective of the regulation: to lay down rules on the use of waste production on agriculture, to secure that the protection of the environment is not overruled

Main components of the law:

- Certain types of sludge can be used in agriculture without previous permission. These types of sludge are listed in an annex of the ministerial order.
- rules on limits for heavy metals and agents injurious to the environment
- rules on disposal of sludge etc.
- rules on storage and storage capacity
- detailed rules on the use of sludge etc.
- detailed rules concerning the use of nutrients in the form of sludge and manure
- When distributing sludge etc. it must be secured that there is no danger of polluting watercourses, lakes etc.
- detailed rules concerning the time of distribution

Relation to EU-legislation: Directive 86/278/EC

Rule of GFP (10): Waste products must be kept (stored) in accordance with rules

These rules refer to the rules included in the regulation on commercial animal husbandry, manure, silage etc. The rules say that storage has to be done in closed containers and specify different demands for the material the containers must be made of.

Control and enforcement: The municipality council is the control and enforcement body.

Penalty: Fine, or if the break of the law is intentional and has resulted in or may result in environmental damage, or the farmer has had financial benefit out of the breaching of the law the penalty may be imprisonment of up to 2 years.

Rule of GFP (11): Crop rotation- and fertilisation plans including maps that show areas for spreading of manure and sludge etc. must be sent to the municipality council, and the use of waste products on agricultural land has to be done in accordance with the rules concerning the amount of nutrients to be applied.

Field and fertilisation plans including maps showing where the waste products have been applied must be sent to the municipality if the amount of waste products used in agriculture exceeds 10 tons of dry matter per year. This has to be done before every 31 March. The amount of nitrogen and phosphorus applied through waste products may not exceed 170 kg nitrogen per hectare per year and 30 kg phosphorus per hectare per year.

Control and enforcement: The municipality council is the control authority and enforcement body.

Penalty: Fine, or if the break of the law is intentional and has resulted in or may result in environmental damage, or the farmer has had financial benefit out of the breaching of the law the penalty may be imprisonment of up to 2 years.

Rule of GFP (12): Application of waste products must be in accordance with rules.

The use of waste products may not be done in a way, which implies a risk of run-off into lakes, ponds, watercourses or drains during break of the frost or heavy showers. The use of waste products may not result in pollution of the groundwater and in unhygienic conditions or general nuisance.

Waste products may not be applied during the weekend and other non-working days if the area is closer than 200 m to urban zones or summerhouse zones.

Control and enforcement: The municipality council is the control authority and enforcement body.

Penalty: Fine, or if the break of the law is intentional and has resulted in or may result in environmental damage, or the farmer has had financial benefit out of the breaching of the law the penalty may be imprisonment of up to 2 years.

Pesticide Use

Ministerial Order No 492 of 7 June 1994 on spraying journals and inspection of spraying equipment in the agriculture, no 492 1994 (the Plant Directory, Ministry of Agriculture, Food and Fishery)

Objective of the regulation: not stated, however it appears from the law text that the aim is securing the proper use of pesticides in agriculture

Main components of the law:

- Owners and users of farms must keep a journal on their use of pesticides. Certain very small farms and areas used for forestry are excepted from the requirement.
- An annex describes in detail the information the spraying journal must contain.
- An annex describes in detail the contents of the inspection of the spraying equipment.

Rule of GFP (6): A record must be made of the pesticides used in accordance with the rules.

A record has to be made of the pesticides used. The record has to be made continuously and at least 7 days after the pesticide has been used. The record has to be kept for 5 years. The record has at least to include: Identification of the area where the pesticide has been used, the size of the area, the crops on the field, the name of the pesticide and dosage per hectare, the date of the treatment and the name of the owner or user of the area.

Control and enforcement: The Danish Plant Directorate controls the rules and they are also the enforcement body. The control includes an administrative control and an on-the-spot inspection. The administrative control includes a control of the spraying journal (keeping and contents). The on-the-spot inspection includes a check of the spraying journals (keeping and contents), and the control body ensures that previous on-the-spot inspections have been carried out correctly. These standards are the verifiable standards.

Penalty: Fine

Soil conservation

Consolidated Act 632 of 23 June 2001 on watercourses (Ministry of Environment)

Main objectives of the act: to secure that the watercourses can be used for the drain-off of water with respect to environmental conditions and demands

Main components of the law:

- rules concerning the general use of watercourses
- classification of watercourses and plants
- regulation of public and private watercourses
- maintenance of watercourses

- restoration of watercourses
- rules regarding supervision and control
- a ban of cultivation etc. in a border of 2 metres along natural or regionally targeted watercourses and lakes with a surface of more than 100 m²

Rule of GFP (13): In borders of 2 metres along natural or regionally targeted watercourses and lakes, cultivation, digging, planting changing of terrain, placement of fences, and erection of buildings are not allowed.

Control: The municipality council or the county council is the control and the enforcement body.

Penalty: Fine, normally of about 2000 dkk (270 EURO).

Conclusion:

Good farming practice in the Danish Rural Development Programme is based on rules included in existing environmental legislation. The codes of good farming practice mainly include rules concerning the handling of nutrients in agriculture and the aim of the rules is chiefly to prevent pollution of the aquatic environment. As it is seen from the text above, only a minor part of the demands of the environmental legislation is used in the codes of good farming practice in order to secure a manageable amount of rules to control. In addition, the selection implies, that most rules are controlled by a single body under the Ministry of Agriculture, Food and Fishery (the paying agency).

No rules concerning nature conservation are included in the codes of good farming practice, despite the Danish legislation includes measures to protect certain landscape features e.g. wet and dry permanent grassland, coastal meadows, bogs, heaths and swamps if they have a size of more than 2,500 ? either separately, joint or in connection with natural lakes of more than 100 m².

Part B

Hanne Jacobsen, The Danish Ministry of Food, Agriculture and Fisheries

Introduction

1. According to the Danish application for support for rural development, Regulation 1257/1999, it is a precondition for aid under the agri-environment scheme and the Less-Favoured Areas schemes that:

”...the beneficiary should customarily engage in Good Farming Practice throughout the commitment period. This requirement is one of the preconditions for the calculation of income loss in the case of the individual support schemes.

The requirement means that the farmer must – at the very least – comply with the current rules concerning agricultural operations including environment protection. The requirements will be set out in specific form where specific provisions are stated.

In relation to Less-Favoured Areas, a requirement under the regulation is that farmers should use farming methods which are consistent with environmental protection and nature conservation, particularly in the form of sustainable agriculture.”

2. Regulation 1257/1999, and its implementing regulation, 445/2002, together require that farmers entering into agri-environment commitments and/or in receipt of compensatory allowances in Less-Favoured Areas under the Programme respect Good Agricultural Practice across the whole of their farm. For agri-environment schemes, Good Agricultural Practice will act as a baseline for which no payments are made. Agri-environment payments are intended to compensate or provide an incentive for farmers to undertake measures which go beyond Good Agricultural Practice. The codes of Good Agricultural Practice apply to the following measures: Organic Farming, Agri-environment Schemes, and Less Favoured Areas.

3. The relevant legal provisions are as follows:

The third indent of Article 14(2) of Regulation 1257/1999 states that:

(i) ”Compensatory allowances [in Less-Favoured Areas] shall be granted per hectare of areas used for agriculture to farmers who [...] apply usual good farming practices compatible with the need to safeguard the environment and maintain the countryside, in particular by sustainable farming.”

(ii) Article 23(2) of Regulation 1257/1999 states that:

”Agri-environmental commitments shall involve more than the application of usual good farming practice.

They shall provide for services which are not provided for by other support measures, such as market support or compensatory allowances.”

(iii) Article 20 of Regulation 445/2002 states that:”A farmer who gives an agri-environment commitment relating to one part of a farm shall adhere to at least the standard of usual good farming practice throughout the farm.”

(iv) Under Section 9 of Regulation 445/2002, which sets out the rules for several measures including agri-environment and Less-Favoured Areas, Article 29 states that: *"[...] Usual good farming practice means the standard of farming which a reasonable farmer would follow in the region concerned."* *Member States shall set out verifiable standards in their rural development plans. These standards shall at least entail compliance with general mandatory environmental requirements."*

The approach

1. The approach to Good Agricultural Practice in this document will be based on two elements. First, compliance with existing environmental legislation; second, a list of "verifiable standards", which will be included as conditions for new agri-environment agreements or Less-Favoured Areas compensatory allowance payments.
2. The whole area used for farming in Denmark is according to the Nitrate Directive designated as vulnerable. In general the environmental problems in agriculture in Denmark are more or less similar all over the country. The environmental requirements concerning agricultural production are accordingly more or less similar all over the country. Denmark has wide-ranging environmental protection legislation, of which the main items are set out below. Compared with European standards these requirements are quite severe. This legislation is enforced by Government Agencies or local authorities and the body responsible for each item is indicated below.
3. Control. The codes of Good Agricultural Practice consist of so-called "verifiable standards" and "non-verifiable standards". The majority of the "verifiable standards" listed below will in connection with the on-the-spot inspections be checked by the competent control body, i.e. The Danish Plant Directorate.
4. However, as regards the codes on animal welfare listed below the competent control body does not have the expertise or the authority to enforce this legislation in detail, when conducting its regular on-the-spot inspections of compliance with the schemes (minimum level 5%). As a consequence, this minor part of the "verifiable standards" will not be subject to the on-the-spot inspections. If the control body suspects any breaches of these rules, the relevant authority will be informed and asked to carry out an inspection. It must be emphasized that these rules are still controlled administratively as described below and that the farmer is still obligated to observe the rules as on-the-spot inspections are undertaken by the appropriate authorities.
5. The "non-verifiable standards" are the remaining codes of Good Agricultural Practice. They will not be subject to 5% on-the-spot inspections, nor will the competent control body be obligated to establish any suspicion of breaches of the rules as part of the regular on-the-spot inspections of compliance with the schemes. However, it must be emphasized that the farmer is still obligated to observe the rules and that control and possible sanctions are undertaken by the appropriate authorities.

6. Administrative control. As part of the administrative control of each application, it is ensured that each applicant fulfils all the "verifiable standards" listed below in a specified period prior to the date of the application. Arrangements will be made for the authorities which enforce this legislation to notify the paying agency, i.e. The Directorate for Food, Fisheries and Agri Business, of any case where farmers are fined, reported to the police, or convicted of offences under relevant provisions of this legislation in a specified period previous to the date of the application. Where such notification is received in relation to applicants, the application will be rejected.
7. As to the "non-verifiable standards" there will be no administrative control in relation to the application. However, the farmer is still obligated to observe these rules and control and possible sanctions are undertaken by appropriate authorities.
8. Sanctions. Any breaches of the "verifiable standards" disclosed during the on-the-spot inspections will be reported to the respective control bodies for possible sanctioning. If the breach is both a violation of the conditions of the agri-environmental commitment or support for Less-Favoured Areas and the "verifiable standards" sanctions for violation of both regulations are possible. Consideration will be given to whether penalties for breach of agreement should be effected, in relation to the objectives of the agreement, or in extreme cases, for exclusion from the scheme. Any penalty is proportionate to the offence.
9. As to the minority of "verifiable standards" not subject to the on-the-spot inspections the competent control body will report any suspicion of clear breaches of the rules to the relevant authority. This authority will at the same time be asked to carry out an inspection in order to sanction possible breaches.
10. As to the administrative control any notification of breaches relating to a specified period prior to the date of the application will result in rejection of the application.
11. The "verifiable standards" of Good Agricultural Practice are ones which are complementary to existing legislative requirements and can be verified by the control body to EU audit standards as part of its existing checks on 5% of agri-environment scheme participants and farmers eligible for Less-Favoured Areas payments. An exception is the rules on animal welfare which are not subject to the on-the-spot inspections. These standards have been chosen so that they are agriculturally practicable and otherwise beneficial throughout Denmark. If these "verifiable standards" are broken, proportionate penalties will be applied as described above.
12. Regulation 445/2002 contains in Title IV rules concerning the basis for the calculation of the aid, reductions, and exclusion. In the administration of the schemes, the paying agency will respect Articles 62, 63 and 64 in this regulation.
13. The "non-verifiable standards" will hence not be subject to 5% checks as described above. The farmers are, however, still obligated to observe these rules, and control and possible sanctions are undertaken by relevant authorities.

14. In the enclosed Annex 1 a short description of the relevant legislation is shown for each of the following elements of Good Agricultural Practice, together with the enforcement agency, the competent control body, and the "verifiable standards".
15. No payments will be made under the schemes for complying with the legislative requirements or with the "verifiable standards".

Verifiable and non-verifiable standards

Over the following pages the codes of Good Agricultural Practice are divided into two different categories: "Environment" and "Animal Welfare".

Environment

a) Legislation

Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings.

Parts of Council Directive of 12 December 1991 on protection of water against pollution caused by nitrates from the agriculture (91/676/EEC) is implemented by this consolidated act. The consolidated act regulates the use of fertilisers in the agriculture and lays down requirements concerning cover of vegetation in order to limit the leaching of nitrates.

Principal rules:

- it is possible for certain farmers with an annual income of more than 20,000.00 DKK to be registered. However, registration is obligatory for certain farmers with an annual income of more than 20,000.00 DKK who fulfil at least one of the following conditions:
 - the farm has more than 10 livestock units,
 - the livestock density exceeds 1 livestock unit per hectare, or
 - the farm receives more than 25 tons of manure or other organic manure in the planning period.
- a maximum quota of nitrogen at farm level is defined. The overall use of nitrogen must not exceed this quota. The consolidated act contains detailed rules on the calculation of the maximum quota of nitrogen.
- cover vegetation must be established on 65% of the cultivated area or area set aside of the farm.
- the farmer is for each planning period obligated to work out field and fertilisation plans. The field plan describes the planned cultivation and establishment of cover

vegetation and must be submitted before the following 31 March. The fertilisation plan shows among other things the planned whole quota of nitrogen at farm level and at field level, the planned use of nitrogen in different kinds of manure and fertilizer. The fertilisation plan must also be submitted before the 31 March in the planning period concerned.

- the farmer is for each planning period obligated to work out a fertilisation account that must be submitted before the following 31 March. Among other things the fertilisation account contains information on
 - the total quota of nitrogen of the farm
 - the total use of nitrogen on the farm
 - the size of the livestock holdings made up in livestock units
 - the size of the area of the farm with a cover of vegetation
 - the size of the area of the farm with catch crops
 - any agreements on tenancy.
 - a system for registration of trading in manure and fertilisers is established.

Enforcement Agency: The Danish Plant Directorate

Control Body: The Danish Plant Directorate

Ministerial Order No. 660 of 4 July 2000 on the use of fertilisers and cover of vegetation in agricultural holdings for the planning period 2000/2001.

Ministerial Order No. 690 of 17 July 2001 on the use of fertilisers and cover of vegetation in agricultural holdings for the planning period 2001/2002.

Under Consolidated Act No. 551 of 2 July 2002 Ministerial Order No. 660 of 4 July 2000 and Ministerial Order No. 690 of 17 July 2001 are issued.

Principal rules:

- requirements regarding the registration of certain farmers
- description of the maximum quota of nitrogen for each specific crop
- how to calculate the maximum quota of nitrogen
- how to make an account of the quota of nitrogen and the use of nitrogen etc. when selling a farm
- rules concerning catch crops. 6% catch crops is required on the cultivated area or area set aside in the planning period concerned
- requirements on working out field and fertilisation plans as well as fertilisation accounts

- requirements concerning suppliers of manure

Enforcement Agency: The Danish Plant Directorate

Control Body: The Danish Plant Directorate

Ministerial Order No. 877 of 10 December 1998 on commercial livestock holdings, manure, silage etc. as amended by Ministerial Order No. 677 of 5 July 2000.

Parts of Council Directive of 12 December 1991 on protection of water against pollution caused by nitrates from the agriculture (91/676/EEC) is implemented by these ministerial orders. The purpose of the orders is to limit pollution and inconveniences of livestock holdings including production, storage, and use of manure, silage etc.

Principal rules:

- requirements regarding the localization of commercial animal holdings (distances to neighbours etc.)
- requirements regarding the placement of stables, dunghills etc. (distances to neighbours etc.)
- requirements regarding the construction of stables etc.
- rules on the capacity for storage of manure (9 months)
- rules on the storage of solid manure, silage, liquid manure, sap from silage, and waste water
- rules on the construction of outlets and drains
- rules on maintaining equipment for storage
- rules on land application of manure and sap from silage, e.g. definition of periods where application may take place. Slurry may in general only be distributed in the period from 1 February to harvest.
- regulation on the number of livestock units and the size of the agricultural area. The order lays down standards for the density of livestock units.

Enforcement Agency: Local authorities (the communes)

Control Body: The Danish Plant Directorate and local authorities (the communes)

Ministerial Order No. 723 of 12 September 1997 on inspection of containers for liquid manure, sap from silage, or waste water.

In addition to Ministerial Order No. 877 of 10 December 1998 and Ministerial Order No. 128 of 22 February 2000 this ministerial order ensures an inspection of containers for liquid manure, sap from silage, or waste water. Furthermore, it lays down rules on authorization of inspectors.

Principal rules:

- for containers with a capacity of more than 100 m³ an inspection is required every 10th year.
- if the time of construction of a container cannot be established, the enforcement agency can decide to carry out an additional inspection.
- if there is any doubt about the strength or tightness of a container with a capacity of under 100 m³ the enforcement agency can decide to carry out an additional inspection.
- instead of going through an inspection the user of the container can decide to put the container out of action.
- the order contains detailed rules regarding the contents and the scope of the inspection.
- the order lays down detailed rules regarding assignment and withdrawal of authorizations.

Enforcement Agency: Local authorities (the communes)

Control body: Local authorities (the communes)

Law No. 266 of 6 May 1993 on keeping a journal of the use of pesticides and the inspection of equipment used to spray pesticides in the agriculture.

This law lays down general rules concerning keeping a journal of the use of pesticides and the inspection of equipment used to spray pesticides in the agriculture. Furthermore, the law states that inspections of spraying equipment must be carried out.

The law does not contain detailed rules on these subjects, but under this law Ministerial Order No. 492 of 7 June 1994 is issued.

Ministerial Order No. 492 of 7 June 1994 on spraying journals and inspection of spraying equipment in the agriculture.

Under Law No. 266 of 6 May 1993 this ministerial order has been issued.

Principal rules:

- owners and users of farms must keep a journal on their use of pesticides. Farms with an area less than 10 hectares only used to cultivating agricultural crops or are set aside, or areas only used to forestry, are excepted from this requirement.
- The Danish Plant Directorate carries out inspection of the spraying equipment.
- an annex to the ministerial order describes in detail the information the spraying journal must contain.
- an annex to the ministerial order describes in detail the contents of the inspection.

Enforcement Agency: The Danish Plant Directorate

Control Body: The Danish Plant Directorate

Ministerial Order No. 360 of 24 May 1993 on instructing commercial users of pesticides as amended by Ministerial Order No. 553 of 29 June 1995.

These ministerial orders are issued under Law No. 21 of 16 January 1996 and apply to the commercial use of chemical pesticides in order to protect, control, and regulate the vegetation. The orders only apply to such chemical pesticides that must be approved by the competent authority.

Principal rules:

- the commercial use of pesticides requires a spraying certificate for the following persons:
- anyone who commercially controls the vegetation for others
- anyone who commercially controls the vegetation in his own or in a rented farm
- employees who commercially control the vegetation
- to obtain a spraying certificate participation in a course is obligatory

Enforcement Agency: The Ministry of Environment

Control Body: Local authorities (the communes)

Consolidated Act No. 632 of 23 June 2001 on watercourses.

The purpose of this regulation is to protect the water in watercourses and lakes against pollution, to secure the use of land along watercourses and lakes, and to secure that watercourses are used with respect to the environment, the quality of the water, and draining.

Principal rules:

- rules concerning the general use of watercourses
- classification of watercourses and plants
- regulation of public and private watercourses
- regulation of watercourses and establishment of new watercourses
- maintenance of watercourses
- restoration of watercourses
- rules regarding supervision and control
- cultivation, digging, planting, changing of terrain, placement of fences, and erection of buildings must not take place in borders of 2 metres along natural or regionally targeted watercourses and lakes with a surface area of more than 100 m² (Article 69).

Enforcement Agency: Local authorities (the communes and the counties)

Control Body: Local authorities (the communes and the counties)

Ministerial Order No. 49 of 20 January 2000 on the use of sludge etc. in the agriculture.

This ministerial order contains rules of the use of sludge etc. in the agriculture. The purpose of these rules is to ensure that environmental considerations are being taken when using sludge etc.

Principal rules:

- certain types of sludge can be used in the agriculture without previous permission. These types of sludge are listed in an annex of the ministerial order.
- rules on limits for heavy metals and agents injurious to the environment
- rules on disposal of sludge etc.
- rules on storage and storage capacity
- detailed rules on the use of sludge etc., e.g. sludge that can be supplied to soil must be used for fertilisation and must be a part of the fertilisation planning. The user must every 31 March submit field and fertilisation plans to the competent authority.
- detailed rules concerning the total use of nutrients in the form of sludge and manure.
- when distributing sludge etc. it must be secured that there is no danger of polluting watercourses, lakes, drain, or subsoil water.
- detailed rules concerning the time of distribution.

Enforcement Agency: Local authorities (the communes)

Control Body: Local authorities (the communes)

b) Verifiable Standards

the following parts of Consolidated Act No. 551 of 2 July 2002 on the use of fertilisers and cover of vegetation in agricultural holdings:

- The administrative control:
 - the consumption of nitrogen (the quota of nitrogen)
 - the cover vegetation (65% requirement)
 - the field plan (contents and submission)
 - the fertilisation plan (contents and submission)
 - the fertilisation account (contents and submission)
 - the catch crops
- The on-the-spot inspection:
 - the consumption of nitrogen (the quota of nitrogen)
 - the cover vegetation (65% requirement)
 - the field plan (contents and submission)
 - the fertilisation plan (contents and submission)
 - the fertilisation account (contents and submission)
 - the catch crops

the following parts of Ministerial Order No. 660 of 4 July 2000 on the use of fertilisers and cover of vegetation in agricultural holdings for the planning period 2000/2001 and Ministerial Order No. 690 of 17 July 2001 on the use of fertilisers and cover of vegetation in agricultural holdings for the planning period 2001/2002:

The administrative control:

- the quota of nitrogen
- catch crops (6% requirement)

The on-the-spot inspection:

- the quota of nitrogen
- catch crops (6% requirement)

the following parts of Ministerial Order No. 877 of 10 December 1998 on commercial livestock holdings, manure, silage etc. as amended by Ministerial Order No. 677 of 5 July 2000

The administrative control:

- the number of livestock units and the size of the agricultural area.

The on-the-spot inspection:

- the number of livestock units and the size of the agricultural area.

the following parts of Ministerial Order No. 492 of 7 June 1994 on spraying journals and inspection of spraying equipment in the agriculture:

The administrative control:

- spraying journals (keeping and contents)

The on-the-spot inspection:

- spraying journals (keeping and contents)
- the competent control body ensures that a previous on-the-spot-inspection has been carried through correctly

Animal Welfare

a) Legislation

Ministerial Order No. 999 of 14 December 1993 on protection of calves as amended by Ministerial Order No. 1075 of 22 December 1997.

These orders implement Council Directive of 19 November 1991 laying down minimum standards for the protection of calves (92/629/EEC) as amended by Directive of 20 January 1997 (97/2/EF) and Commission Decision of 24 February 1997 (97/182/EF).

The ministerial orders contain rules on breeding and fattening of calves being kept inside and that are up to 6 months old.

Principal rules:

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- the area requirement is proportionate with the size of the calves:
 - 1,5 m² per calf weighing under 150 kilos
 - 1,7 m² per calf weighing 150-200 kilos
 - 1,9 m² per calf weighing over 200 kilos
 - rules on the size of single boxes

- prohibition against tying calves
- requirements regarding the isolation, heating, and ventilation of the building
- prohibition against constantly keeping calves in the dark
- the responsible person must supervision the stalled calves at least two times a day
- every calf shall be able to lie down, rest, get up, and take care of its skin without any trouble. Every calf must be able to see other calves.
- rules on cleaning and disinfection
- rules on the shaping of floors
- rules on the calves' access to fodder and water
- prohibition against muzzles

Enforcement Agency: The Ministry of Justice

Control Body: The Danish Veterinary and Food Administration

Ministerial Order No. 998 of 14 December 1993 on protection of pigs.

This ministerial order implements Council Directive of 19 December 1991 laying down minimum standards for the protection of pigs (91/630/EEC).

The ministerial order contains rules on breeding and fattening of pigs being kept inside.

Principal rules:

- the area requirement is proportionate with the size of the pigs:
 - 0,15 m² per pig weighing up to 10 kilos
 - 0,20 m² per pig weighing 10-20 kilos
 - 0,30 m² per pig weighing 20-30 kilos
 - 0,40 m² per pig weighing 30-50 kilos
 - 0,55 m² per pig weighing 50-85 kilos
 - 0,65 m² per pig weighing 85-110 kilos
 - 1,00 m² per pig weighing over 110 kilos
- prohibition against tying pigs
- requirements regarding the isolation, heating, and ventilation of the building
- prohibition against constantly keeping pigs in the dark
- the responsible person must supervision the pigs at least one time a day
- every pig shall be able to lie down, rest, and get up without any trouble. Every pig must be able to see other pigs.
- rules on cleaning and mucking out

- rules on the shaping of floors
- rules on the pigs' access to fodder and water.

Enforcement Agency: The Ministry of Justice

Control Body: The Danish Veterinary and Food Administration

Ministerial Order No. 340 of 30 June 1981 on the use of cages for laying hens as amended by Ministerial Order No. 381 of 16 June 1986.

These ministerial orders regulate the use of cages for laying hens. The orders lay down minimum standards for cages for laying hens. This order meets the requirements in Directive of 7 March 1988 (88/166/EØF).

Principal rules:

- permission to use cages for laying hens must be obtained
- the area requirement is proportionate with the size of the hens:
 - maximum 3 storeys
 - minimum 600 cm² per hen (small and medium breed)
 - minimum 900 cm² per hen (large breed)
 - rules on the size of the cages
- rules on watering systems with nipples or drinking cups
- rules on ventilation
- the person with the permission to use the cages must see to it that every hen is supervised at least one time in 24 hours. He shall furthermore inspect the cages and technical plants/installations.

These ministerial orders will be rescinded on 1 January 2003 and replaced by Ministerial Order No. 533 of 17 June 2002, which will come into force on 1 September 2002.

Enforcement Agency: The Ministry of Justice

Control Body: The Danish Veterinary and Food Administration

Verifiable Standards

Administrative control:

- Ministerial Order No. 999 of 14 December 1993 on protection of calves as amended by Ministerial Order No. 1075 of 22 December 1997.
- Ministerial Order No. 998 of 14 December 1993 on protection of pigs.
- Ministerial Order No. 340 of 30 June 1981 on the use of cages for laying hens as amended by Ministerial Order No. 381 of 16 June 1986.