

Draft Ordinance on aid for measures to reduce emissions of nitrogen compounds in agriculture

Section 1 This Ordinance contains provisions on State aid for measures that contribute to the sustainable reduction of ammonia emissions from agriculture and measures that contribute to a more efficient use of nitrogen. Aid may be provided if funds are available. This ordinance is issued on the basis of Chapter 8, § 7 of the Instrument of Government.

Terms and definitions

Section 2 For the purposes of this Ordinance

‘service supply agency’ means a company which, under contract, carries out work or leases out motor vehicles or other similar equipment to agricultural holdings for the storage, treatment or distribution of livestock manure or mineral fertilisers; and

‘livestock manure’ means the faeces or urine of the domestic animals, whether unprocessed or processed, with the possible admixture of:

- (a) feed residues;
- b) litter material; or
- c) waste water, wash water and dish water, silage effluent, precipitation collected in a slurry pit, in an exercise pen and in containers or any other kind of liquid.

Otherwise, words and expressions used in the Ordinance have the same meaning as in

— Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

— Commission Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

General conditions for aid

Section 3 Aid may be granted for measures that contribute to reducing ammonia emissions from agriculture. Aid may also be granted for a measure that contributes to a more efficient use of nitrogen by adapting nitrogen fertilisation according to the needs of the crop and nitrogen delivery from the soil at the plant site.

Aid may be granted to:

1. agricultural holdings, for investments in technical solutions or equipment; and
2. service supply agencies, for investments in equipment.

Section 4 Aid may not be granted for a measure for which:

1. other public aid has been granted, or

2. which must be implemented in order to fulfil an obligation under Union or national law.

Section 5 Aid for agricultural holdings may only be granted in accordance with Chapter I and Article 14 of Commission Regulation (EU) 2022/2472 of 14 December 2022 and correspond to

1. a maximum of 80% of the eligible cost, in the case of aid for a measure contributing to the reduction of ammonia emissions; or
2. no more than 30% of the eligible cost, in the case of aid for measures contributing to a more efficient use of nitrogen.

Section 6 Aid to service supply agencies may only be granted in accordance with Chapter I and Article 36 of Commission Regulation (EU) No 651/2014 and correspond to:

1. a maximum of half of the eligible cost, in the case of aid for a measure contributing to the reduction of ammonia emissions; and
2. a maximum of 30% of the eligible cost, in the case of aid for a measure that contributes to a more efficient use of nitrogen.

Section 7 If information on aid to an undertaking is to be published in accordance with Article 9 of Commission Regulation (EU) No 651/2014 or Commission Regulation (EU) 2022/2472, the aid may only be granted with the undertaking's agreement to that publication.

Applications for aid

Section 8 An application for aid shall be made in writing by an authorised representative of the applicant and submitted to the Swedish Board of Agriculture before the start of the eligible measure.

Section 9 An application for aid shall include

1. the name of the applicant company, number of employees, annual turnover and balance sheet total;
2. the location, start and end date of the measure;
3. a description of the measure and its financing, implementation and timetable;
4. a list of the costs of implementing the measure and an indication of the percentage of the costs for which aid is requested;
5. a description of how the measure will contribute to reducing ammonia emissions or to a more efficient use of nitrogen;
6. an indication whether the applicant wishes the aid to be paid in advance; and
7. other information necessary for the assessment of the application.

The information referred to in points 1, 2 and 4 of the first subparagraph shall be provided on the applicant's honour.

Section 10 If the applicant is an agricultural holding, the description referred to in Section 9, first paragraph, point 5, shall include information on the utilised agricultural area of the area where manure is spread and, where applicable, the number of animals. If the measure concerns the management of livestock manure, the estimated volume of manure to be covered by the measure shall also be indicated.

Section 11 If the applicant is a service supply agency, the description referred to in Section 9, first paragraph, point 5 shall include information

on the estimated utilisation rate of the equipment and the geographical areas, at municipal or county level, in which the equipment is to be used. If the equipment is to be used for the handling of livestock manure, the applicant shall, to the extent possible, indicate the estimated volume of livestock manure that will be handled.

The Swedish Board of Agriculture's examination

Section 12 The Swedish Board of Agriculture shall examine questions concerning aid. Decisions on aid may be made on an ongoing basis, in connection with decision rounds or after invitations to tender.

Section 13 A decision to grant aid shall contain information on the deadline for submitting an application for payment to the Swedish Board of Agriculture. The decision shall be subject to the conditions needed to ensure compliance with the requirements in this Ordinance.

Special conditions for aid

Section 14 A decision to grant aid may be subject to the condition that the equipment for which the aid is granted is owned by the beneficiary and used in the beneficiary's business for the same purpose for at least five years after the date on which the aid was paid.

The equipment is not considered to be used for the same purpose if:

1. it is no longer used in Sweden, or
2. the activity is affected by a significant change that means that the equipment is not used in accordance with the purpose of the aid.

Payment of aid

Section 15 An application for payment must be submitted to the Swedish Board of Agriculture no later than the date specified in the decision on aid. With the application, the beneficiary shall attach written documentation that proves the eligible cost and that other requirements for the aid have been met.

Section 16 Aid under this Ordinance shall not be paid to an undertaking which

1. is subject to recovery orders following a decision of the European Commission declaring an aid illegal and incompatible with the internal market;
2. is in liquidation or declared bankrupt;
3. has tax or fee debts or other debts that have been submitted to the Swedish Enforcement Authority and which, during recovery, are dealt with as a general case, or
4. has a debt that has not been paid on time and that relates to the recovery of aid granted by the Swedish Board of Agriculture or the county administrative board pursuant to Ordinance (2022:1826) on the common agricultural policy in the EU.

Section 17 The Swedish Board of Agriculture may decide on advance payment of the aid. However, advance payments may not exceed half of the amount of aid granted.

Section 18 The Swedish Board of Agriculture may decide that aid shall not be paid if:

1. the applicant has provided incorrect information or has otherwise caused the aid to be granted on incorrect grounds or in an excessive amount;
2. the aid was granted for incorrect reasons or in an excessive amount and the recipient should reasonably have been aware of this;
3. it transpires that the conditions for the support have not been met and the applicant should reasonably have been aware of this; or
4. a condition for the aid has not been met and the deviation is not minor.

Notification obligations

Section 19 Any person who applies for or has been granted aid under this Ordinance shall notify the Swedish Board of Agriculture as soon as possible of any change in circumstances which may affect the entitlement to aid or the amount of the aid.

Monitoring, follow-up and evaluation

Section 20 The Swedish Board of Agriculture shall verify that the conditions for aid granted under this Ordinance are complied with.

If requested by the Swedish Board of Agriculture, the beneficiary shall demonstrate that it has fulfilled the conditions for the aid by submitting geotagged photographs in the manner determined by the Swedish Board of Agriculture.

An on-the-spot check shall be carried out in cases where the measure cannot be satisfactorily verified during the administrative check on the basis of the information requested by the Swedish Board of Agriculture.

Section 21 The Swedish Board of Agriculture shall follow up and evaluate aid granted under this Ordinance.

Section 22 A beneficiary shall, at the request of the Swedish Board of Agriculture, provide the information that the Board needs in order to:

1. check the conditions laid down in this Ordinance and in the decision granting the aid, and
2. follow up and evaluate the aid.

Repayment and recovery

Section 23 A beneficiary is liable for repayment of aid that has been paid, if the conditions are such that aid under Section 18 shall not be paid.

Interest shall be paid on the amount to be repaid in accordance with Section 6 of the Interest Act (1975:635).

Section 24 If a beneficiary is required to repay aid pursuant to Section 23, the Swedish Board of Agriculture shall decide to recover all or part of the aid together with interest. The claim or interest may be partially reduced if there are exceptional reasons for doing so.

Section 25 Provisions on the recovery and repayment of aid granted in contravention of the standstill obligation in Article 108(3) of the Treaty on the Functioning of the European Union (unlawful aid) are laid down in the Act (2013:388) on the application of the European Union's state aid rules.

Section 26 The Swedish Board of Agriculture may issue regulations on the enforcement of this Ordinance.

Publication, reporting and registration

§ 27 Provisions concerning publication, reporting and registration can be found in § 12 a of the Act (2013:388) on the application of the European Union's State aid rules and the Ordinance (2016:605) on the application of the European Union's State aid rules.

Appeals

§ 28 § 40 of the Administrative Procedure Act (2017:900) contains provisions for lodging appeals with a general administrative court. However, decisions other than decisions under Section 18 and 24 may not be appealed.