

Towards co-governance in monitoring of spatially differentiated regulation for good water quality – Common pool resources and EU law



SOILS2SEA

Reducing nutrient loadings from agricultural soils to the Baltic Sea via groundwater and streams

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Executive summary

Eutrophication is a major problem in the Baltic Sea, with high nitrogen (N) and phosphorous (P) loads leading to harmful algal blooms and decreased oxygen levels. Existing regulation like the EU Water Framework Directive (WFD) has been insufficient in effectively addressing the issue. One reason for this may be that existing regulation relevant for N and P entries from agriculture applies across the board to all farms and farmers without taking into account the specific characteristics of different areas of land such as the retention capacities. Instead, spatially differentiated regulation has been proposed as a more efficient and effective approach in terms of improving water quality. Spatially differentiated regulation utilises information on local conditions to inform decision making on land-use and mitigation options to reduce the N and P load in waters coming from agricultural sources. It requires extensive monitoring which can either be conducted solely by public authorities or with the participation of those affected by the legislation, notably local farmers.

This paper explores the latter approach, i.e., monitoring for a spatially differentiated regulation that could be organised by farmers themselves in what we call a co-governance approach. The paper draws conclusions from the literature on common pool resources (CPR) on the conditions under which cooperative monitoring by local stakeholders would be likely to be effective for ensuring the sustainable use of natural resources and work over a longer period of time. The theoretical insights are then compared and combined with insights on the preferences of farmers from two regions in Denmark and Sweden. Moreover, we analyse whether the current relevant EU legislative framework would allow EU Member States to introduce such a co-governance approach to monitoring.

We conclude that the WFD and the Nitrates Directive, the two pieces of legislation most relevant for the issue at hand, allow Member States to delegate monitoring tasks to private actors. However, mechanisms need to be in place to ensure that details on the frequency, sites and techniques of monitoring contained in EU legislation are observed by private actors so that the objectives and standards contained in the directives are met. Insights from literature on common pool resources indicate that the proposed co-governance approach to monitoring spatially differentiated regulation is a feasible and promising policy approach. It would involve nested enterprises where activities like monitoring, enforcement and conflict resolution are organized in multiple layers, reflecting the fact that water quality is a CPR that is part of a larger system. Based on the preferences of farmers in the regions studied, water councils or similar organizations should take over responsibilities for monitoring, rather than farmers doing it themselves. However, farmers and other members of such councils should establish the rules for monitoring; even when farmers are not monitoring N and P themselves, there should be mechanisms for the farmers to monitor the monitors.



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