

Session 1/2 du Webinaire RIOB 2021
Faire respecter les réglementations du secteur de l'eau :
nécessité et fonctions d'une police de l'eau

Approche française de la Police de l'Eau
(Water Police)



MINISTÈRE
DE LA TRANSITION
ÉCOLOGIQUE
ET SOLIDAIRE



MINISTÈRE
DE L'AGRICULTURE
ET DE
L'ALIMENTATION

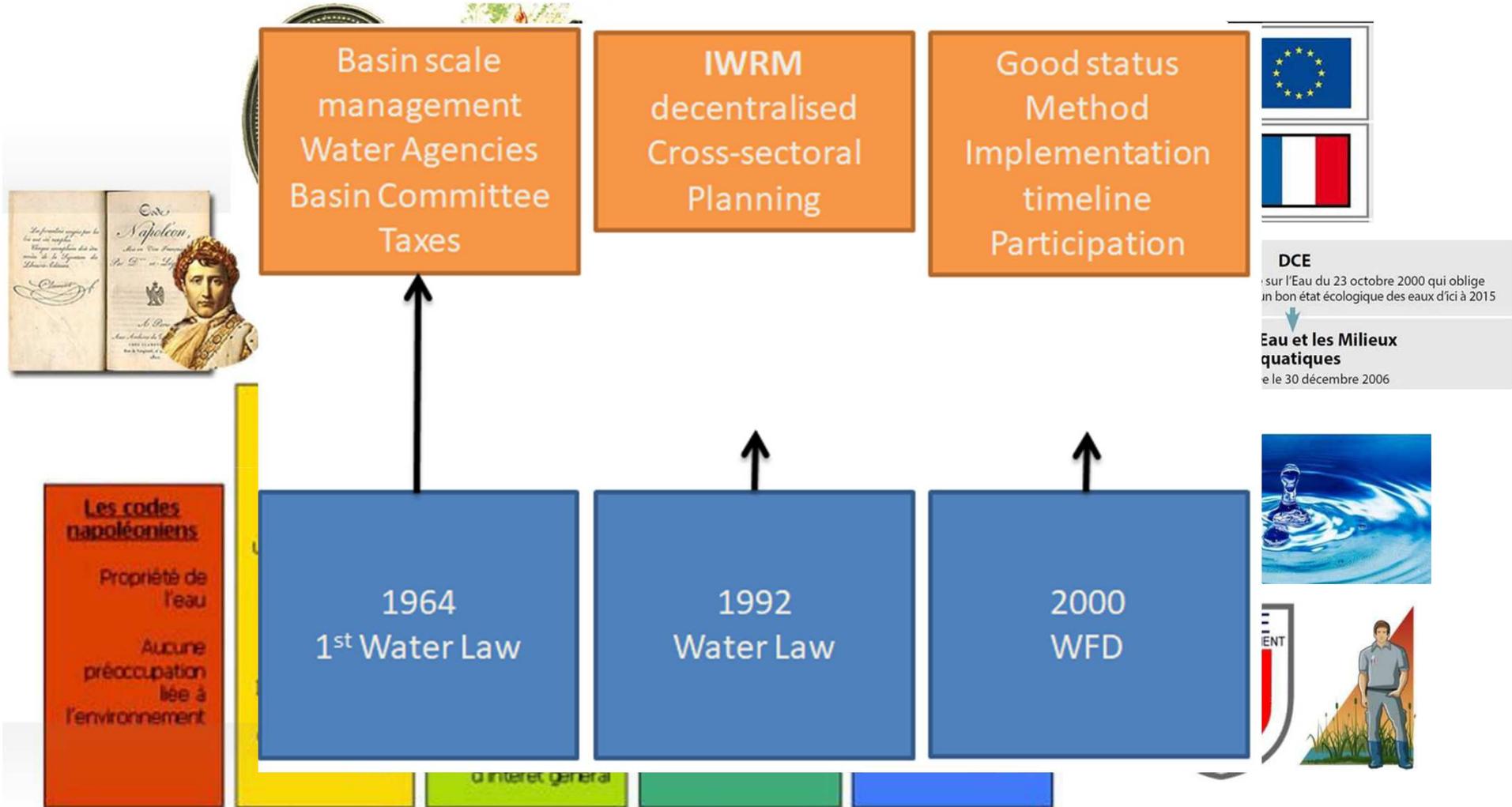


OFB/Direction de la Police
et du Permis de Chasser

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Water police & aquatic ecosystem



We might need a bit of historial perspective...
 From controlling water uses to protection environment
 From a national regulation to a European one

Water police and aquatic ecosystem



According to environmental law:

- **Water as a common, national heritage** : State legitimacy to act and serve the public interest
- **Balanced management of water resources (4 objectives) :**
 - **objective 1 : Protect water quality**
 - **objective 2 : protect water quantity**
 - **objective 3 : preserve natural environment:** aquatic ecosystems, incl. Rivers, lakes, wetlands and biodiversity
 - **objective 4 : trade-offs, balancing conflicting interests of water uses**
interests of water resources protection for its intrinsic value and interests related to its economic values (uses)
- **The unicity of the water resources:** protective measures apply to all types of waters: surface water, groundwater, sea water/coastal water

Water police and aquatic ecosystem

- **A special police force**, working specifically on a field of application defined by law

- local implementing provisions defined by law, at State level,

- 2 distinct police authorities (executive power / judicial power):

- Administrative police** by the Prefect (representative of the Ministry of interior at Department level,



- Judicial police** by the public prosecutor / District Attorney (Ministry of justice) du Procureur de la République



- Support (operational, and in terms of expertise) is provided to both these police authorities by the services of the **French Biodiversity Agency** (Ministry of Environment)

- The Water police is a technical police that rely on the specialized expertise of it **environmental inspectors**





Preventive role of the administrative police

1) The authorization system (or Individual Declaration system):

-A national regulation (nomenclature): define the list of **infrastructures, equipes, construction works or activities** that have an impact on aquatic ecosystems and water uses (because of water withdrawals or discharges) and are therefore **obliged to request an authorization to operate, or to be declared**, in proportion to the danger it represents for the water resources and the natural environment

-This obligation is valid for any entity (State, local authorities, companies... and citizens!) planning to realize a project and which therefore needs to analyze the consequences of that projects on the water resources and associatived environments.

- **The Prefect of the Department** (local administrative authorities) issue the authorization and declaration (or not, if the request is not correctly filed, meaning nothing is planned to mitigate pollution/consumption/risks). It set the conditions for completing the projects, as well as operating or maintenance prescriptions.



Preventive role of the administrative police

2) Specific territorial regulations at local level

Provisional limitation or suspension of water uses:

- Crisis management for droughts,
- Crisis management for floods.
- **Strengthened protective measures** :
 - In areas where there is an insufficiency of water resources as compared to the water users needs
 - In area particularly sensitive to pollution (e.g. with exceptional biodiversity protected by law)
- The **prefect of the department** defines locally the content of this Specific territorial regulations and enforces them

Controls & sanctions of the Water/Aquatic Environment Police

No effective police can exist without control/without inspection:



- Inspection of general restrictions, applying to all,
- Inspection of the specific restrictions included in any given authorization/Declaration
- Inspection of the compliance with the specific territorial regulations

No effective police can exist without sanctions:

- Administrative sanctions implemented by the **Prefect of the Department**
- Judicial sanction implemented by the **Public Prosecutor / District Attorney**





Repressive police: Administrative and judicial

Repressive administrative police :

After a control revealing non-compliance to a given regulation, the Prefect of the Department can request the offender to comply to the regulation under a given timeframe.

If the offender doesn't comply to this **formal notice**, the Prefect can issue **administrative sanctions** without the intervention of a judicial authority (judge):

- Suspending the construction works,
- Suspending the operation of the infrastructures/equipments,
- Ordering the closure of the facilities, or definitive termination of the works,
- Issuing sanctions for penalty/administrative fine payments



Repressive police: Administrative and judicial

Judicial repressive police

After a control or an investigation revealing serious infringements, the Public Prosecutor / District Attorney issues **penal sanctions**.

Sanctions are defined by law and can include incarceration and fines as follow:

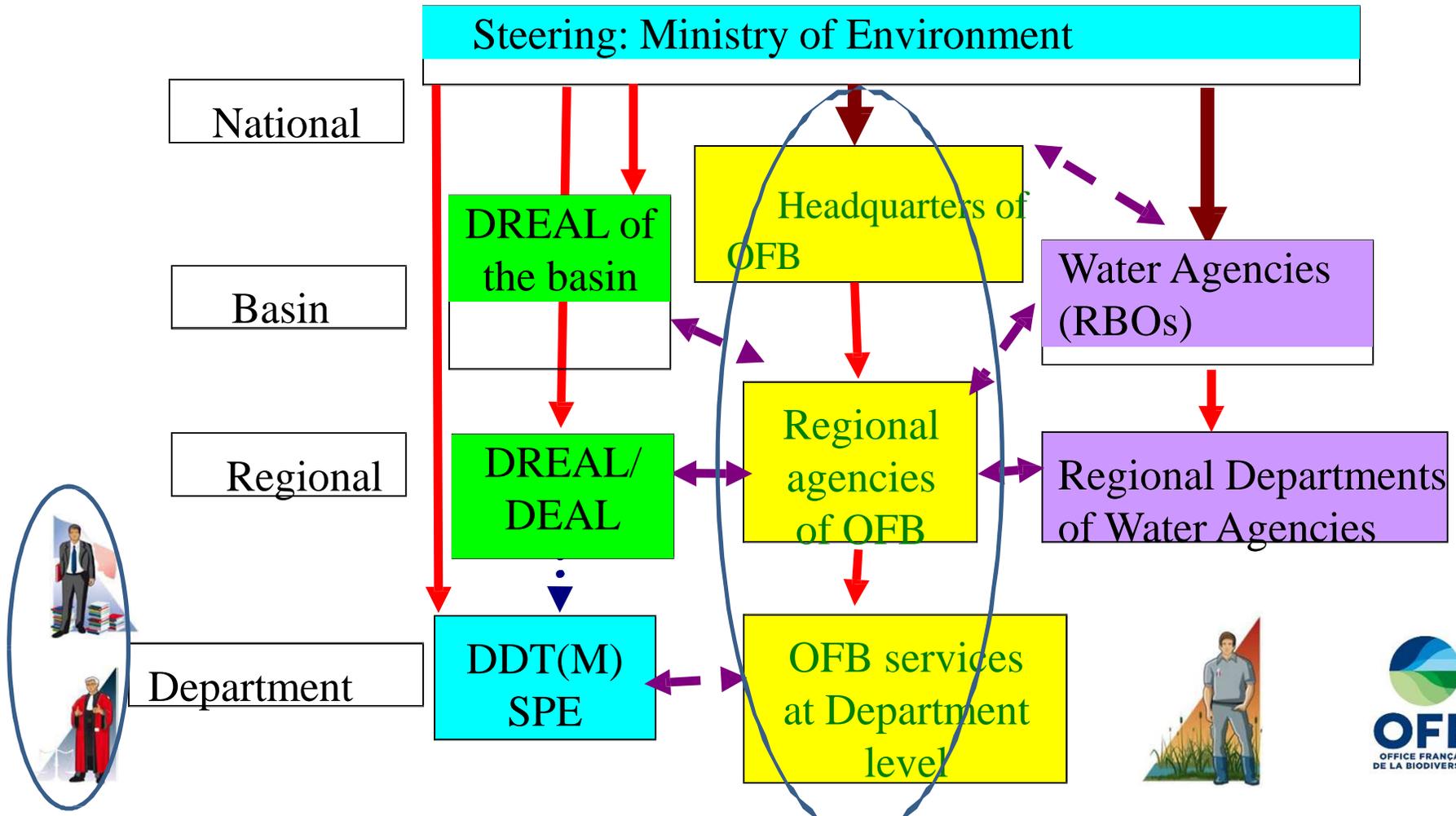
- Offence to pollute water: up to 2 years of incarceration & 75.000€ in fines
- The court can issue an order to restore the aquatic ecosystems affected
- Lacking police authorization: 2 years of incarceration & 75.000€ in fines

In addition to penal sanctions, you can have **civil sanctions**: when someone considers to have suffered prejudice (plaintiff/civil party), there is a possibility to sue in court and claim damages for this prejudice, to the author of the prejudice)

For minor offences, fines are comprised between 11€ to 1500€.

The role of the OFB in Water/Aquatic ecosystems Police

Public service of water



⋯▶ Animation
 ↔ Coordination
 → Hierarchical authority
 ➔ Guardianship of





The role of the OFB in Water/Aquatic ecosystems Police

1800 environmental inspectors of the OFB, intervening at all the steps of Water Police:

-From the beginning of process, with technical support on the **preventive role of the administrative police**

-To the end of the process, with controls and inspections of **repressive administrative police**, and with investigations of the **repressive judicial police**.



1) Preventive administrative police :

These inspectors also provide expertise in support of the Prefect of the Department (**technical advices** on the request of authorizations or on the definition of the specific territorial regulations).

This technical advice allows the local authority to :

-Assess the impacts of the works considered,

-Define the prescriptions or compensatory measures to be developed to limit these impacts



The role of the OFB in Water/Aquatic ecosystems Police

2) Repressive administrative police



The 1800 environment inspectors of the OFB can perform administrative controls and support other State services to check compliance with regulations (individual authorizations, local regulations, etc.). In case of non-compliance, these controls can lead to administrative penalties.

3) Repressive judicial police:



The 1800 environment inspectors of the OFB can investigate, look for and record infringements, gathers proofs, look for perpetrators, give fines and write police record that can leads to legal sanctions



The role of the OFB in Water/Aquatic ecosystems Police

Report of OFB policing actions

Police actions of OFB services for the whole territory are related to the 5 following areas (% of realized missions) :

1. Water environment protection (rivers, wetlands...) (42 %)
2. Water pollution prevention (38 %)
3. Balanced management of the water resources and of drought crisis (8 %)
4. Fight against water species poaching (7 %)
5. Protection of protected species and natural habitats (5 %)

The *1800 OFB environment inspectors* work at preventing and reducing damages to natural environments (water, land and marine) and associated usages:

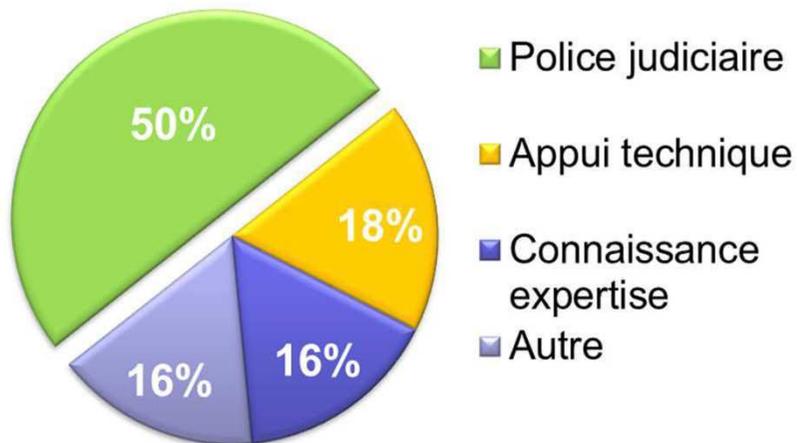
- Preventive action, with 7000 to 10 000 technical opinions to support State services
- With **20 000 et 25 000 police control/year** the **OFB is the first French operator in number of police controls in the field of water police**



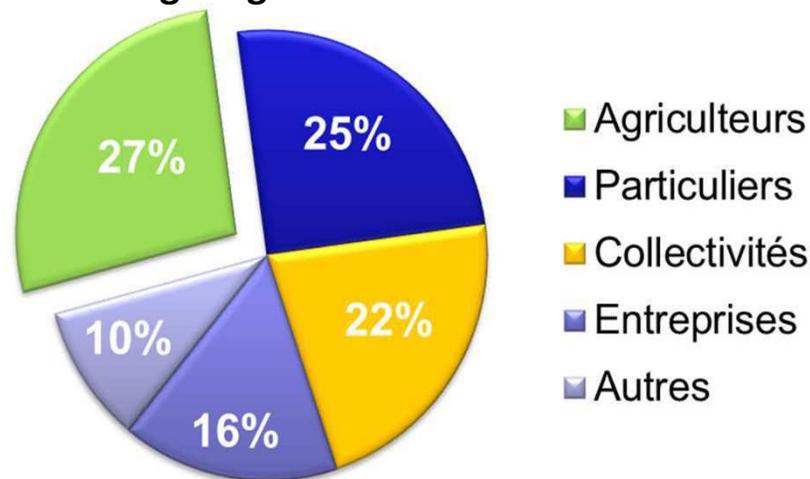
The role of the OFB in Water/Aquatic ecosystems Police

Report of OFB policing actions

A police involved in various activities



Controls targeting all kind of stakeholders

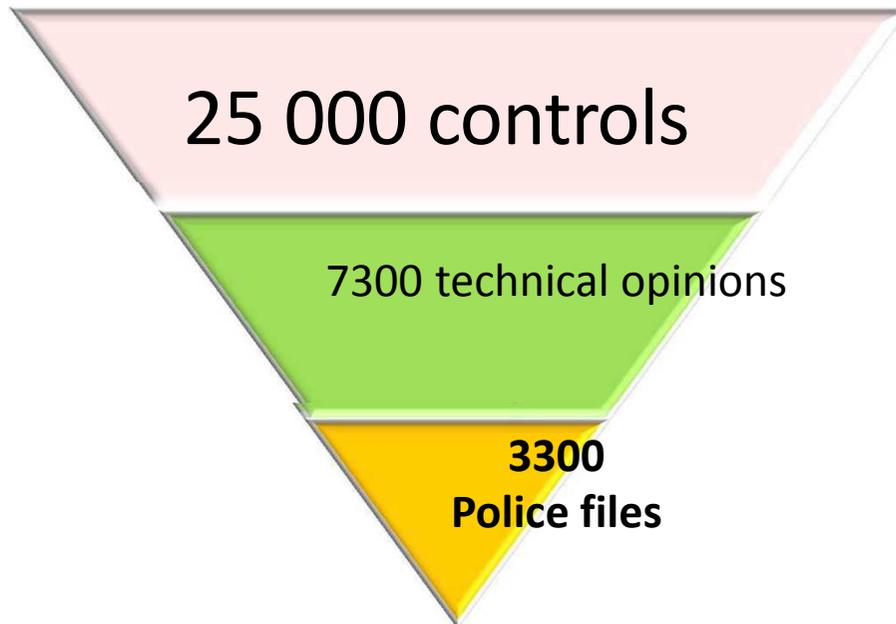




The role of the OFB in Water/Aquatic ecosystems Police

Report of OFB policing actions

A water police combining prevention and controls



Report of the controls:

66% conform

34 % non conform

Report of the judicial repressive police: 88% of OFB are related to serious breaches

Main policing stakes: preserving the water resource (quality, quantity, balanced uses), water biodiversity protection (species, habitats)





The role of the OFB in Water/Aquatic ecosystems Police

Report of OFB policing actions

Pollution



Embankments



Recalibration



Wetlands destruction



Poaching



No water policy without water field police!

