



European Union Network for the Implementation and Enforcement of Environmental Law

STABLISHING CRITERIA FOR SUBSTANTIAL DAMAGE FOR WATER RESOURCES



Anabela Rebelo, PhD

Portuguese Environment Agency Water Resources Department anabela.rebelo@apambiente.pt



WG Water Resources under IMPEL National Network

Substancial damage?



APA (Environment Agency)

Anabela Rebelo

Andreia Franco

Bruno Simplício

Maria Felisbina Quadrado

Sofia Batista

Vanda Reis







Rodrigo Ferreira





European Union Network for the

Implementation and Enforcement

of Environmental Law

MINISTÉRIO PÚBLICO (Prosecutors)

Elisabete Matos

Filipe Preces

Joaquim Morgado

Mago Pacheco



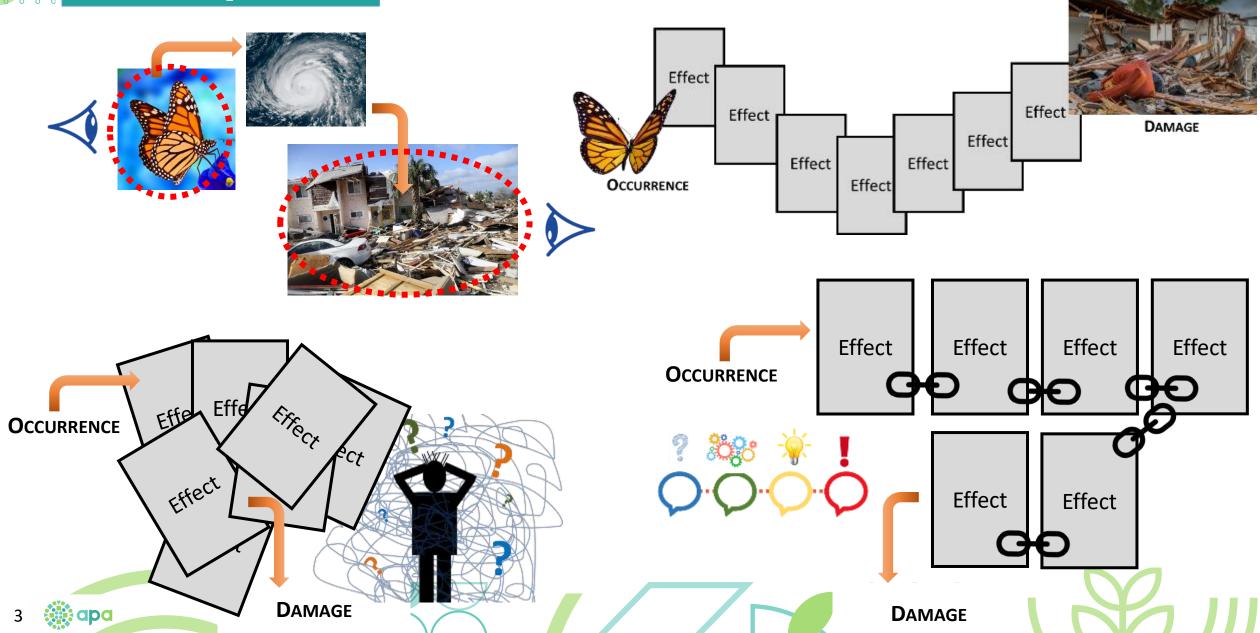
POLÍCIA JUDICIÁRIA

(Criminal Police) João Ferreira

Acknowledgement: ICNF (Nature & Forest Conservation Institute)

2 João Loureiro, Nuno Saavedra e Frederico Lobo

Butterfly effect



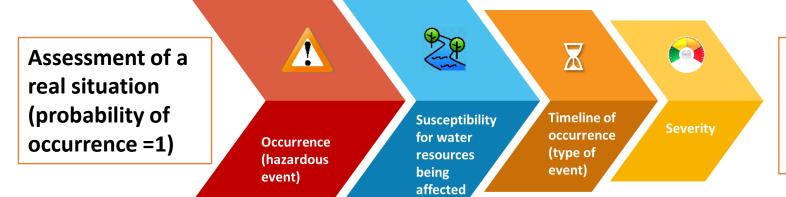
Probability vs Reality

X **Probabilistic** assessment (probability of **Timeline of** Susceptibility occurrence for water occurrence ≤ 1) **Occurrence** (type of resources (hazardous event) being event) affected

RISK ASSESSMENT METHODOLOGIES

Probability of damage ≤ 1

Risk from very low to very high level of damage



Probability of damage = 1

Damage from very low to very high level

Development of the methodology



Technical-Scientific Concepts



Legal concepts



 Technical and scientific methodology supported by risk assessment (knowledge base models)



 Multiple types of hazardous occurrences/events and impacts on surface water and/or groundwater



Evidence collection and evaluation

Deterioration of water quality

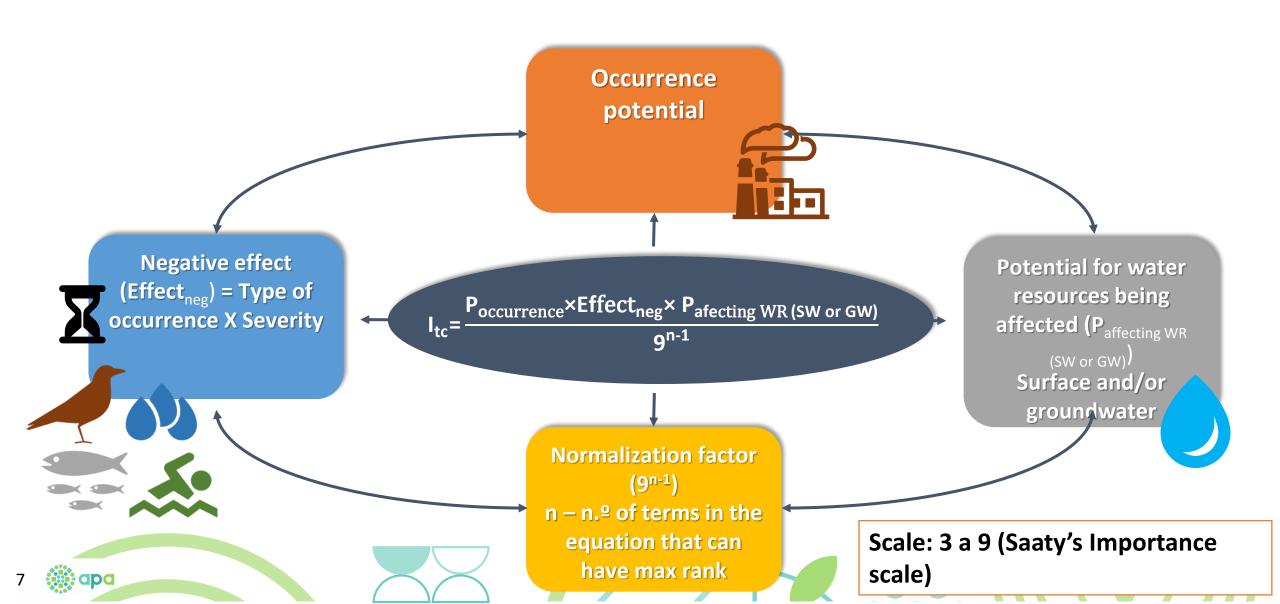
Exceedance (or non-compliance) of at least one of the applicable quality standard for parameters or

The increase of the concentration of at least one pollutant in the receiving environment even if the respective threshold is already exceeded





Technical-Scientific Index of illicit for water resources (I_{tc})



Occurrence potential

"Measure what happens or what is happening"

Rejection of chemicals or waste (including slurry and manure) containing chemicals or hazardous occurrence or event of unknown origin

Urban or non-urban wastewater discharge with and without permit (except microbiological load)

Urban or non-urban wastewater discharge with and without permit (only microbiological load)

- IMMEDIATE OBSERVATION
- Colour
- pH
- Temperature
- Oil or grease spots
- Labels
- Permits
- Industry/service types

Occurrences nearby groundwater abstractions

Negative Effect – Type of occurrence

Description	Туре	Classification
There are no records of this type of occurrence in the last 12 months	Discontinuous occurrence	3
There is one occurrence recorded in the last 12 months	Discontinuous occurrence	5
More than one occurrence has been recorded in the last 12 months	Discontinuous occurrence	7
Is a continuous wastewater discharge or there is a record of more than six occurrences in the last 12 months	Continuous occurrence	9



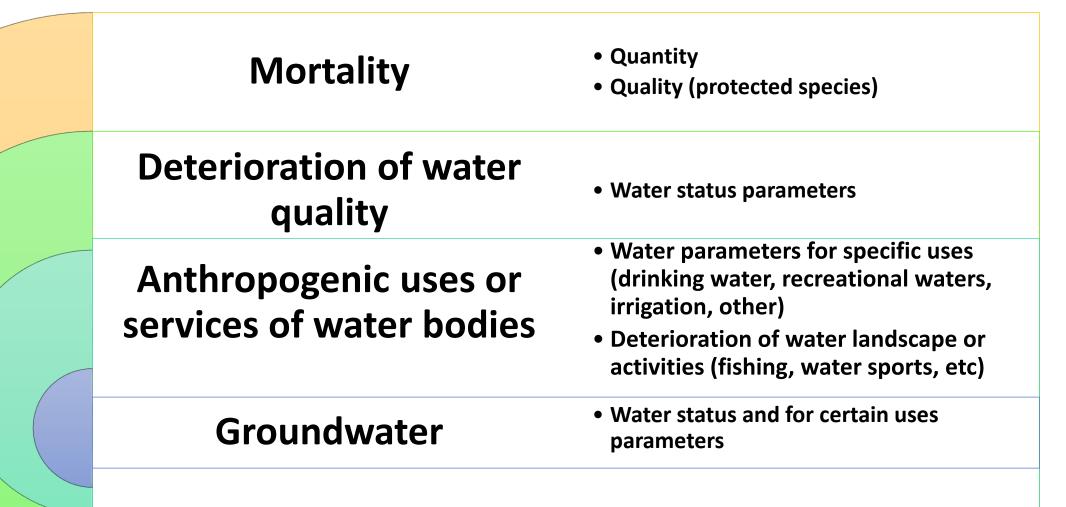








Negative Effect - Severity "Measure the degree of affectation and extent"



Potential for water resources being affected "measure the susceptibility of water resources"









LOCATION

Assessment of the distance of the occurrence to streams, flooding areas, dams, groundwater abstraction

TYPE OF AREA (WR)

Sensitive areas (UWWT Directive), areas vulnerable to nitrate pollution, aquifer recharge

OTHER AREAS

Protected areas for economic interest species, recreational areas

NATURE PROTECTION

Species and habitats protection areas, natural parks





Evidence collection and evaluation

OCCURRENCE POTENTIAL

- On-site observation of "entry point" in the WR (and upstream & downstream)
 - Observation and characterization of the occurrence
 - Collection of raw product and/or water samples

Type of occurrence

- Review occurrence history
- Take into account weather conditions (e.g. floods/torrential streams)
 - Acts of vandalism ("see" complaint)



SEVERITY

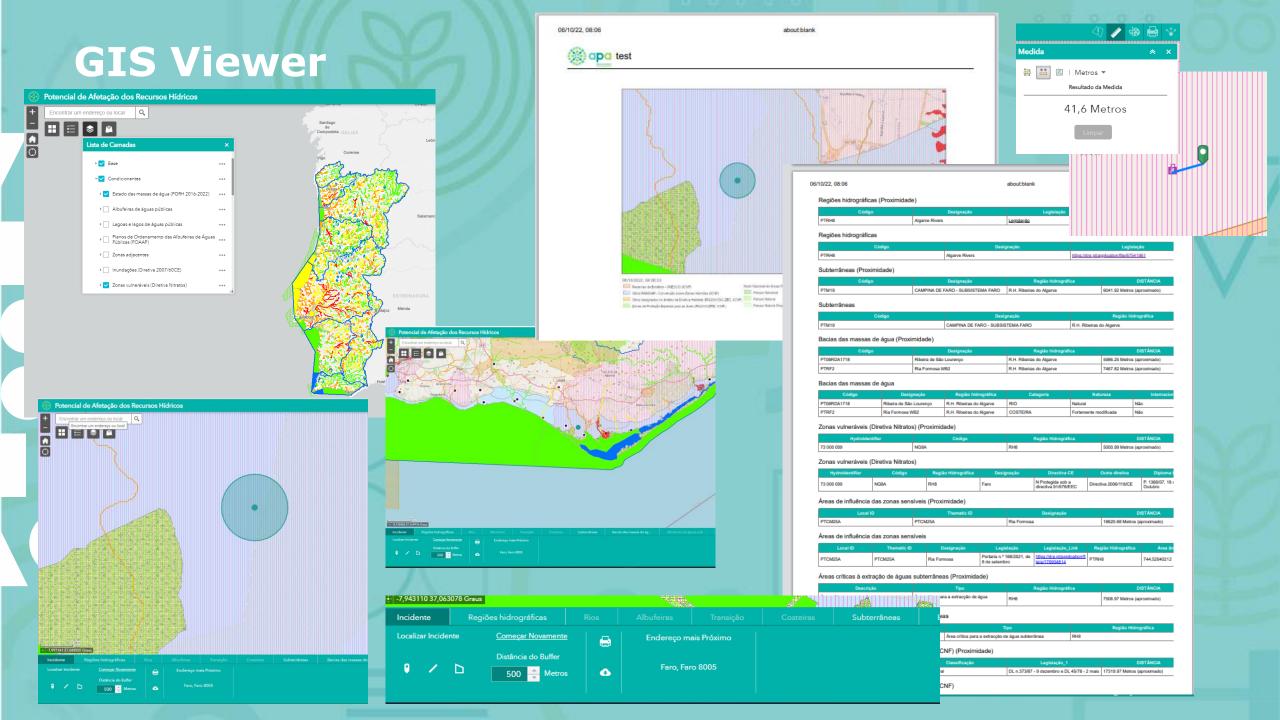
- Observation of the occurrence site and surrounding area (upstream & downstream)
- Collection of water samples in one or more points
- Specimen collection
- Evaluation of uses on-site and in permitting databases and/or GIS Services

POTENTIAL FOR WR BEING AFFECTED

Assessment through a GIS system (geo viewer)

It was developed a roadmap and check-list to help on the evidence collection and assessment

References: National and international standards such as NO, ISO, CEN (collection and analysis of water samples), INTERPOL guidelines, legal diplomas and jurisprudence



Additional factors

Factor	Description	Increasing factor
Α	Water status less than good	20%
В	The non-compliant parameters are coincident with those that supports the status less than good	30%
С	Water status good or higher than good	50%
D	Recurrence of a situation of discharge/disposal in violation of the legislation in force	10%
E	The transgressor has not fully or partially implemented the preventive and/or corrective measures determined by the administration as a result of previous discharges/disposals; or has not respected the established deadline	10%

Regarding A-C factors are applicable

- A+B <u>or</u>
- (



Results from I_{tc} for surface or groundwaters



$$I_{tc} < 4$$

Intermediate level



$$I_{tc} \ge 4$$

High level: May/should define a substantial damage for water resources (SW or GW)

Intermediate level

Cumulative effects



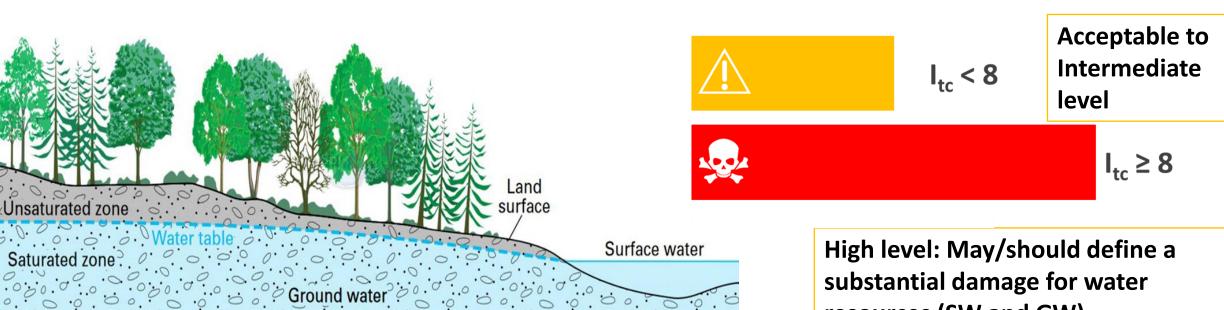








Cumulative effects: Surface + Groundwater (I_{tc SW} + I_{tc GW})



Ground water and surface water

resources (SW and GW)

Acceptable to Intermediate level: May/should define a substantial damage for water resources depending on the magnitude of the affected water bodies (look in detail the magnitude of the **Severity factor**



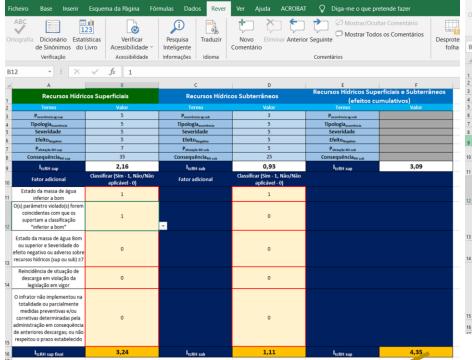
An excel tool was developed to integrate all the calculation linked with the determination of the damage magnitude

May/should define a substantial damage for SW

Q Diga-me o que pretende faze

Mostrar Todos os Comentários

Despro



Recursos Hídricos Superficiais Efeito_{Negativo} Efeito_{Negative} P_{aletação RH sup} P_{afetação RM sub} 3,02 ItcRH sup stado da massa de água inferior a bom coincidentes com que os suportam a classificação Estado da massa de água Bor ou superior e Severidade do efeito negativo ou adverso sobre recursos hídricos (sup ou sub) ≥7 descarga em violação da totalidade ou parcialmente medidas preventivas e/ou corretivas determinadas pela administração em consequência de anteriores descargas; ou não espeitou o prazo estabelecido

Pesquisa

Comentário

123

descarga em violação da legislação em vigor

O infrator não implementou na totalidade ou parcialmente medidas preventivas e/ou corretivas determinadas pela

administração em consequência de anteriores descargas; ou não respeitou o prazo estabelecido Verificar

Acessibilidade

Pesquisa

Inteligente

Informações

Acessibilidade

Verificação Acessibilidade Informações Comentário **Recursos Hídricos Superficiais** Recursos Hídricos Subterrâneos Tipologia .. **Tipologia** Severidade Severidade Consequência_{RH} 7,00 ItcRH sub 3,02 Classificar (Sim - 1, Não/N Classificar (Sim - 1, Não/Não **Fator adicional** Estado da massa de água O(s) parâmetro violado(s) fores coincidentes com que os suportam a classificação "inferior a bom" Estado da massa de água Bom ou superior e Severidade do efeito negativo ou adverso sobr recursos hídricos (sup ou sub) ≥ Reincidência de situação de

Look at the severity factor (SW and GW) for final decision

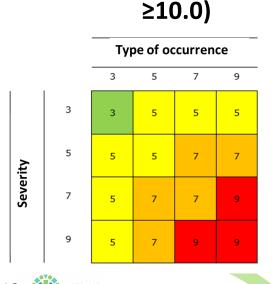
May/should define a substantial damage for SW and GW

Linking the collected information (examples)

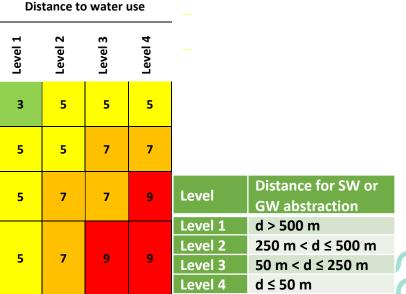
Occurrence potential

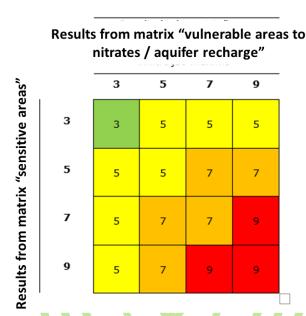
- Maximum magnitude (9) when:
- Chemicals and/or waste or runoff/rejection containing priority, priority hazardous substances or other substances (classification under WFD & daughter directives) or very persistent substances or
 - petroleum hydrocarbons C₁₀ to C₄₀
 - Runoffs and/or wastewater discharges causing acute anoxia (with observation of total or near total oxygen depletion), acute pH variation in the receiving medium (pH in the receiving medium ≤3.0 or

highly toxic, reprotoxic, mutagenic or with endocrine disrupting potential (chemical labels) or total









Final Remarks

Definition of criteria & respective measure/magnitude using a scale of importance

Scale of importance: Based on the comparison of facts/elements (namely prior or in absence of occurrence)

Links the potential for harm from the occurrence characteristics with susceptibility of the receiving water bodies for being affected (characteristics, uses and services of water body)

Methodology supported in technical-scientific approaches (Risk assessment basis: Probability of occurrence equals to 1 means that math equations allows to measure its respective effects)

Developed Tools: Allows a quicker and an easier assessment by the inspection/police/officers promoting a better and holistic approach to support reports for prosecutors

So far...



Tools

- Roadmap/check-list: To help evidence collection on field & assessment/desktop studies
- GIS: Desktop studies to obtain data to be used on Excel tool
- Tool: Automatic Excel calculation from inputted data (given by check-list+GIS)



CAPACITY BUILDING

Were already promoted training sessions some with inspection to test the criteria application (methodology) and find improvement needs

 \bigcirc



STATE OF ART

Working with Inspection and Prosecutors in the application to real situations (possible "water crime")













THANK YOU FOR YOUR ATTENTION!







apambiente.pt



European Union Network for the Implementation and Enforcement of Environmental Law

