

The Ministère du Développement durable, de l'Environnement et des Parcs

The Ministère du Développement durable, de l'Environnement et des Parcs has the mission of protecting the environment, natural ecosystems and biodiversity. The department must contribute to the well-being of current and future generations by providing the population with a healthy environment in line with Québec's economic and social development. It is responsible for promoting sustainable development and coordinating all government initiatives in this area. The department also oversees administration of the national parks network.

Three agencies report to the department:

- the Bureau d'audiences publiques sur l'environnement;
- the Société québécoise de récupération et de recyclage; and,
- the Société des établissements de plein air du Québec.

A NEW MANAGEMENT FRAMEWORK

A Sustainable Development Act, adopted on April 19, 2006, establishes a new management framework under which the Public administration can increasingly take this factor into account when developing programs and policies. The act foresees the adoption of a new strategy aiming to ensure consistent government action in this area.

On December 14, 2006, an assistant auditor general, whose official position is that of Sustainable Development Commissioner, was named by the Auditor General and approved by the Office of the National Assembly. He primarily seconds the Auditor General in carrying out verification duties implicating sustainable development.

Implementation of the legislation will likely result in legislative, regulatory and administrative changes at the Ministère du Développement durable, de l'Environnement et des Parcs. All other government departments and agencies will be invited to review their legislative framework, methods of working and services, as required to adhere to existing principles and achieve the objectives of the legislation, the sustainable development strategy, and the comments of the Sustainable Development Commissioner. With a degree of alertness much like that exhibited during the application of *A Public Administration Act*, the Québec Ombudsman will be particularly watchful of the potential impacts these changes could have on services to citizens.

The Bureau d'audiences publiques sur l'environnement

The Bureau d'audiences publiques sur l'environnement has the mission of consulting and informing the population on issues regarding the quality of the environment. It evaluates private and public projects with a potential environmental impact, and listens to citizens' concerns.

The Bureau d'audiences publiques sur l'environnement is the only agency reporting to the department over which the Québec Ombudsman has jurisdiction. In this case, the Québec Ombudsman reviews complaints regarding administrative actions by personnel of the Bureau d'audiences publiques sur l'environnement's secretariat and general directorate. This is not the case for the Société québécoise de récupération et de recyclage and the Société des établissements de plein air du Québec, for their employees are not appointed under *A Civil Service Act*.

The complaints reviewed in 2006-2007, however, only concerned the Ministère du Développement durable, de l'Environnement et des Parcs.

Complaints Reviewed by the Québec Ombudsman

Ministère du Développement durable, de l'Environnement et des Parcs*	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	27	29	20	9

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

The Québec Ombudsman received a variety of complaints. The most often cited grounds concerned the department's handling of environmental complaints, with citizens primarily criticizing the department's failure or hesitancy to take the necessary actions to ensure adherence to laws and regulations in circumstances they considered detrimental to their health or the environment.

AIR QUALITY REGULATION

Under its mandate, the Québec Ombudsman is concerned by the *Air Quality Regulation* in so far as its implementation is likely to have an impact on citizens, businesses and municipalities.

On January 18, 2006, the Acting Ombudsperson wrote to the Minister of Sustainable Development, Environment and Parks to offer its opinion in this regard and emphasize the importance of developing an implementation plan

for this future regulation. It also suggested that a section of the department's annual report be dedicated to the application of this regulation or, at least to produce a separate periodical report. Either approach would offer citizens more comprehensive information on a subject that is decidedly in the public interest.

On March 31, 2007, the department carried on its analysis of the briefs and comments received, and promised to respond to the Québec Ombudsman once this exercise was completed.

THE NECESSARY COOPERATION AND CONSENSUS-BUILDING

Government regulations on environmental protection are mainly enforced by three actors with specific powers and responsibilities within their respective jurisdictions. The federal and Québec governments pass laws and regulations, disseminate information and promote good environmental practices in those areas they are responsible for as a result of the constitutional division of powers. Municipalities and regional county municipalities (RCM), in turn, are increasingly given authority in these areas. Initially focused on issues involving nuisances and zoning, these powers now include matters such as the management of some watercourses, and the protection of banks, shores and floodplains.

In the environmental realm, the legislative and regulatory corpus is notable for its scope and complexity, comprising numerous related and often technical standards that are often amended and updated. Lastly, another category of actors are notably involved in this area. They are the federal and provincial departments responsible for land development, wildlife management, agriculture and fisheries.

The sheer number of stakeholders, combined with the multitude of required standards and necessary project authorizations, can be staggering for citizens. Governments, municipalities and RCMs must make every effort to mitigate the risks related to information quality, cooperation and concerted action. These factors are not exclusively linked to environmental protection, and can easily exist in other activity sectors. At times, moreover, various units within a same public agency will give paltry consideration to citizens' interests, either failing to act in concert or passing the buck with regard to a given issue.

Each year, the Québec Ombudsman is contacted by people who claim to have been misled by a lack of information on the respective responsibilities of their municipality and the Ministère du Développement durable, de l'Environnement et des Parcs, or because of a lack of cooperation between the latter and other departments.

The application of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains is rife with the potential for such a lack of communication. The department is notably mandated to develop and coordinate the implementation of this policy, while municipalities must adapt the policy's principles to their regulations and oversee its implementation within their respective territories. The Québec Ombudsman and the department have been discussing the difficulties inherent in the application of this policy over the past few years. Early on, the Québec Ombudsman observed a number of problems regarding the exercising of the respective responsibilities of municipalities and the Ministère du Développement durable, de l'Environnement et des Parcs with regard to a number of issues, among them the quality and comprehensiveness of the information disseminated to citizens, the dialogue among the parties involved, the training offered by the department to municipal inspectors, or yet still the lack of a unique and detailed definition of a watercourse.

The department reacted positively to the Québec Ombudsman's comments and has been making ongoing corrections since 2002, including a review of its working and communication tools. The policy was also amended in 2006, with a view to facilitating its implementation. The Québec Ombudsman cannot at this point determine the positive impact these actions may have had on citizens.

In addition, and with regard to the prevention aspect of its mandate, the Québec Ombudsman deems it appropriate to remind the Ministère du Développement durable, de l'Environnement et des Parcs that in light of the significance and criticality of its responsibilities, it should always bear in mind the risks related to a sharing of responsibilities among various entities and take the available measures to minimize these as much as possible. The department should consider this a priority, not only in applying this particular policy, but in all areas of the program where there is a sharing of responsibility.

This reminder is included in the Québec Ombudsman's 2006-2007 observations on the coordination of regional activities with the Ministère des Ressources naturelles et de la Faune, and regarding the public management of the erosion of the shores of the St. Lawrence with the Ministère de la Sécurité publique and the Ministère des Affaires municipales et des Régions. In both instances, the Québec Ombudsman intervened with a focus on prevention, striving to increase the Administration's awareness of the critical importance of further coordination among the various actors and the need to pay particular attention to the information disseminated to citizens.

In this present case, the Québec Ombudsman feels that the Ministère du Développement durable, de l'Environnement et des Parcs should learn from the problems it encountered in implementing the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains. The Québec Ombudsman therefore expects the department to use all the legislative and other tools available to facilitate the application of the policy as revised in 2006. In addition, with regard to those areas of activity where there is a sharing of responsibility, the Québec Ombudsman believes the department must do everything in its power to promote coordination and consensus-building, particularly as regards information disseminated to citizens.