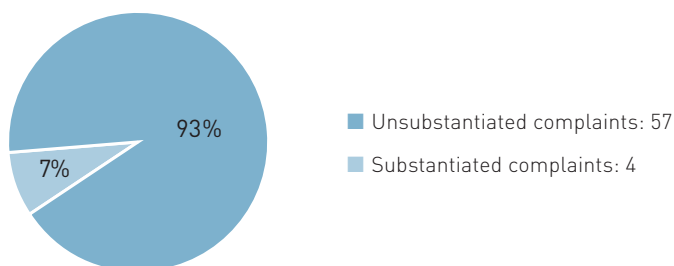


# ENVIRONMENT AND RESOURCES



Government departments and agencies	Complaints received	Investigations not completed		Investigations completed		Total
		Complaints referred	Complaints interrupted	Unsubstantiated complaints	Substantiated complaints	
Ministère de l'Agriculture des Pêcheries et de l'Alimentation	36	1	13	9	1	24
Ministère du Développement durable, de l'Environnement et des Parcs	41	2	10	20	1	33
Ministère des Ressources naturelles et de la Faune	49	7	12	28	2	49
<b>Total</b>	<b>126</b>	<b>10</b>	<b>35</b>	<b>57</b>	<b>4</b>	<b>106</b>

This year, the Québec Ombudsman received 126 complaints on the subject of environment and resources, up from 114 in 2007-2008. However, analysis revealed that very few of these complaints were substantiated.

## Ministère de l'Agriculture, des Pêcheries et de l'Alimentation

### THE LISTERIOSIS CRISIS: A RISK MANAGEMENT APPROACH THAT NEEDS TO BE RE-EXAMINED

In September 2008, the Québec Ombudsman launched an investigation into the Government's management of the listeriosis outbreak of August 19, 2008. In Québec, the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (MAPAQ) is responsible for overseeing consumer food safety issues, and also for inspecting the premises of food manufacturers, processors, distributors and vendors.

Listeriosis is a bacterial disease that must be reported to the Ministère de la Santé et des Services sociaux (MSSS) whenever it is detected. All reported cases are investigated by the regional public health branch of the MSSS, which contacts the victim and completes an investigatory questionnaire on the foods consumed by that person in the weeks preceding the onset of symptoms.

When the National Public Health Branch of the MSSS examines the connections between individual cases and concludes that an outbreak of listeriosis has taken place, it is up to the MAPAQ to identify the source(s) of contamination in the food sector, and terminate the problem. It does this by consulting the investigatory questionnaires. In last year's outbreak, it concluded that the consumption of cheeses manufactured in Québec was a potential source of the disease.

On September 4 and 5, 2008, in an attempt to terminate the outbreak, the MAPAQ issued a massive recall of cheeses, principally from two cheese factories in Québec. On September 6, its officers visited approximately 300 retailers and destroyed not only the recalled cheeses, but also all other cheeses that had been cut and were likely to have come into contact with the recalled products.

Given the scope of the MAPAQ's measures, the Québec Ombudsman decided to examine the Government's management of the outbreak. Its purpose in doing this was to see whether the methods used by the MAPAQ – recalling and destroying cheeses – were appropriate and reasonable, based on its evaluation of the risk and the effect on cheese producers.

The ultimate goal of the investigation was to see whether the crisis had been managed in compliance with current rules governing food recalls and risk management in cases of food poisoning. The aspects to be considered included the MAPAQ's inspection and supervisory role in the agri-food sector. Could the crisis resulting from the listeriosis outbreak have been avoided? Would the current inspection system be sufficient to limit the impacts of such an outbreak? What exactly is the scope of the MAPAQ's supervisory role in the agri-food sector? A further goal was to identify and document the risk assessment, management and communication practices applied by the MAPAQ: What rules were followed? Were the methods chosen by the MAPAQ to address this particular outbreak similar to those used in previous crises? Did it consider and assess the media-related and economic impacts of the measures for the cheese industry in its decision to recall and destroy the cheeses?

In short, could the crisis have been managed more effectively?

The Québec Ombudsman's report will be available at [www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca) in 2009.

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

## PROTECTING LAKESHORES, RIVER BANKS, LITTORAL ZONES AND FLOOD PLAINS

### *Is the MDDEP's approach too restrictive?*

In 2008-2009, the Québec Ombudsman launched a systemic investigation of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains and the role played by the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP) in implementing the policy.

Under section 2.1 of the Environment Quality Act, the Minister of Sustainable Development, Environment and Parks is responsible for preparing and proposing a protection policy for lakeshores, riverbanks, littoral zones and floodplains, and for implementing and coordinating that policy.

Pursuant to the provisions of the Environment Quality Act and the Act respecting land use planning and development, the municipalities and regional county municipalities (RCMs) are responsible for applying the Policy by ensuring that its principles are incorporated into municipal by-laws and RCM land use plans.

After extensive discussions with the MDDEP and a careful examination of individual complaints, the Québec Ombudsman notes that the MDDEP often takes a restrictive view of its role in the application of the Policy. The Québec Ombudsman wants to see whether this problem is due, at least in part, to the MDDEP's failure to perform certain policy-related duties entrusted to it by the Environment Quality Act.

Based on the complaints received since the Policy came into force in 1987, the Québec Ombudsman concludes that the MDDEP makes scant use of the powers entrusted to it by the Act respecting land use planning and development to ensure that the principles set out in the Policy are reflected in municipal by-laws and applied effectively.

As far as individual complaints are concerned, the MDDEP often decides that it is not within its mandate to examine requests for authorization in cases where the municipality has a by-law implementing the Policy's principles. It therefore does not intervene, regardless of whether the work – public or private – was authorized by the municipality, but simply refers the complainant to the municipality concerned, even where the work in question is contrary to the Policy.

In a ruling dated March 6, 2006, the Québec Court of Appeal stated that the MDDEP, in regarding itself as having no authority over private projects, even those that did not comply with the Policy, had misinterpreted its role. The ruling was not appealed.

The Québec Ombudsman will continue with its analysis in 2009, to ensure that the MDDEP fulfills its responsibility to implement and coordinate the application of the Policy. This will ensure that individuals caught up in situations covered by the Policy are aware of their recourse and know that the MDDEP has the mechanisms it needs to ensure compliance with Government policy.

The following situation, brought to the attention of the Québec Ombudsman, is a good example of the problems the MDDEP's current approach can cause.

## The importance of timely action

*An individual and his neighbour decided to alter the river separating their two properties in order to create a shared artificial lake. They did not request permission either from the municipality or from the Ministère du Développement durable, de l'Environnement et des Parcs before starting work.*

*In the following year, the individual and his neighbour argued and one of them reported the work to the municipality and the MDDEP, requesting that it be dismantled. The other objected. An investigation revealed that the work did not comply with the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains. There ensued a long series of discussions between the two individuals, the MDDEP and the municipality, to decide which authority should intervene. Four years later, no action had been taken*

*and one of the individuals approached the Québec Ombudsman.*

*An in-depth investigation by the Québec Ombudsman clearly showed that the MDDEP had failed to act even though the work had taken place on a watercourse under its authority. However, an environmental assessment at the time of the investigation revealed that the river and its banks had stabilized over the years, and it would now be more disruptive to restore the watercourse to its former state than to leave it as it was. It was therefore impossible to remedy the situation.*

*This case clearly illustrates the problems caused by dividing authority over the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains between the MDDEP and the municipalities.*

# Ministère des Ressources naturelles et de la Faune

## Delaying a decision does not make it less difficult

*In May 2007, an individual requested an exclusive surface mining lease from the Ministère des Ressources naturelles et de la Faune (MRNF), with a view to operating a quarry.*

*He sent all the necessary documentation and met all the conditions for the granting of a lease. However, a number of regional stakeholders strongly objected to the request, since the proposed quarry would be located near an outfitting operation.*

*The MRNF, which usually responds to this type of request within two to three months, still had not reached*

*a decision some 18 months later. Not only did its inertia cause financial problems for the applicant, it was also contrary to the Act respecting administrative justice, which stipulates that decisions by the Government authority must be made diligently, in order to be fair and respectful to citizens.*

*The delay in processing this particular request was completely unreasonable, and the Québec Ombudsman intervened with a view to obtaining a quick resolution. However, five months after its initial intervention, it is still awaiting the MRNF's final decision.*