

Course Natural Resource Management
Environmental Public Policies
UniLaSalle Rouen

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Part III Environmental regulation

1 Environmental regulation

- Chapter 5. Environmental policy instruments
- Chapter 6. Strategies for implementing environmental policies
 - Environmental taxation in France
 - Green nudges : urban experiences

Changing in environmental representations (1/4)

The evolution of environmental policies in France is part of the international context of changing representations according to which environmental problems are perceived and treated.

LACROIX et ZACCAI 2010 have suggested two types of changes in framing :

- the mutations of the relationships between environment and economy, and
- the increasing complexity of the issues.

Changing in environmental representations (2/4)

	Issues	
	Early 70s – late 80s	Early 90s – late 2000s
Relationship between the environment and the economy	Divergence Industrial Dev. Meadows Report « Stop the growth ? » 1972	Convergence Sustainable Dev. Brundtland Report « Our common future » 1987
Questions : - geographical - thematic	Local to regional Air, water, species Acid rain nuclear	Global Biodiversity GMOS Climate change
Environmental discourses	Minority	Consensus

LACROIX et ZACCAI 2010

Changing in environmental representations (3/4))

Pressures

	Early 70s – late 80s	Early 90s – late 2000s
Macroeconomics	Production	Consumption Distribution
Sources	Specific Fixed	Diffuse Mobile
LACROIX et ZACCAI 2010		

Changing in environmental representations (4/4)

Responses

	Early 70s – late 80s	Early 90s – late 2000s
Political integration process	Institutionalization	Internationalization
Public sector :		
- governance	Directional State	Coordinating State
- instruments	Constraint	Incentive
Private sector :		
- research	Traditional technologies	Green technologies
- development	Processes	Products
LACROIX et ZACCAI 2010		

Public management of the environment

In connection with the changes in representations, the processes of public management of the environment are being implemented

Successive phases of institutional impulse emerge, pushed by the societal context :

- Relatively young administration compared to other fields of intervention.
- The Ministry of the Environment is characterized by instability of its competencies.
- Changes in types of governance and instruments.

Public intervention $\Rightarrow$ from institutionalization to internationalization.

LACROIX et ZACCAI 2010

Main phases of institutional impetus (1/3)

- 1971 : Creation of the Ministry of the Environment → foundation phase.
 - ▶ Institutionalization, popularization of a vague concept,
 - ▶ gathering of policies (managed discontinuously by several ministries),
 - ▶ initiation of legislative processes and regulatory framework,
 - ▶ encouraging other ministries to reactivate their environmental departments (among other reasons, to avoid having them transferred to the newcomer).

LACROIX et ZACCAI 2010

Main phases of institutional impetus (2/3)

- 1990 : National Environment Plan → consolidation phase.
 - ▶ Territorialization (decentralization) : creation of the DIREN,
 - ▶ creation of peripheral agencies : ADEME, INERIS and IFEN,
 - ▶ substantial increase in the Ministry's budget,
 - ▶ definition of quantified objectives,
 - ▶ integration of the environment in economic activities.

LACROIX et ZACCAI 2010

Main phases of institutional impetus (3/3)

- 2007 : French Environmental *Grenelle* → opening stage
 - ▶ establishment of a participatory procedure including five colleges : State, local authorities, business, syndicates and environmental associations
 - ▶ announcement of the integration of the environment in the heart of public decision making, as well as structuring measures such as the climate-energy contribution, the ecological connectivity (green corridor), and the massive plan for the sustainable buildings.
- 2009 : Law Grenelle know as « Grenelle 1 »
- 2010 : Second Law Grenelle, know as « Grenelle 2 ».

LACROIX et ZACCAI 2010

Phases of impulse of the instruments (1/6)

- 2015 : Law on the energy transition for green growth (LTECV)
 - ▶ succeed in the energy transition
 - ▶ renovation of buildings : 500,000 houses/year
 - ▶ clean transport, improve air quality and protect health
 - ▶ fight against waste and promote the circular economy
 - ▶ simplification of procedures

Phases of impulse of the instruments (2/6)

- 2016 : Law for the reconquest of biodiversity, nature and landscapes, Biodiversity Law
 - ▶ recognition of ecological damage
 - ▶ strengthening of the mitigation hierarchy (*ERC sequence*), creation of SNC (French biodiversity banks)
 - ▶ land instrument : environmental real obligations (ORE), equivalent to environmental easements
 - ▶ mapping of degraded sites
 - ▶ Creation of the AFB (today ONB, National Office for the Biodiversity), creation of priority areas for biodiversity, ratification of the Nagoya protocol.

Phases of impulse of the instruments (3/6)

- 2018 : Law on the evolution of housing, development and digital, known as the ELAN law.
 - ▶ observation of rents and rent control (experimentally reauthorized in tense areas),
 - ▶ housing mobility lease,
 - ▶ reform of the social sector (HLM),
 - ▶ simplification of the regulations of joint ownership,
 - ▶ modification DPE (housing energy diagnosis),
 - ▶ use of eco-materials and low-carbon solutions.

Phases of impulse of the instruments (4/6)

- 2019 : Energy-Climate Law, the objective of carbon neutrality in 2050 to respond to the climate emergency and the Paris Agreement.
 - ▶ 40% reduction in fossil fuel consumption - compared to 2012 - by 2030 (against 30% previously),
 - ▶ a halt to the production of electricity from coal by 2022,
 - ▶ photovoltaic panels or any other renewable energy production process or vegetation will have to be installed for new warehouses and commercial buildings ($1000m^2$ of floor space),
 - ▶ renewable energy communities : low-income housing organizations can become the legal entity organizing a collective self-consumption operation,
 - ▶ support for the hydrogen industry,
 - ▶ fighting against thermal flaws in buildings.

Phases of impulse of the instruments (5/6)

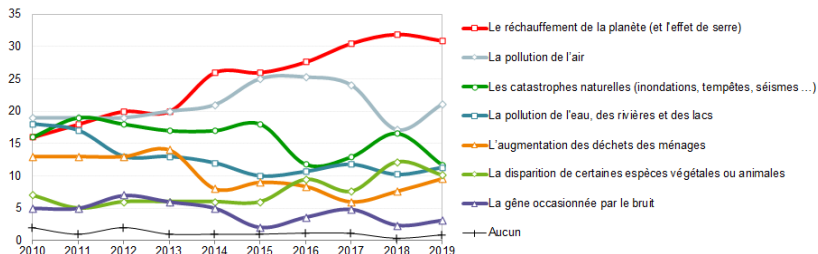
- July 2021 : RE2020 decree, new standards for new buildings → replace RT2012.
- 2021 : Law to combat climate change, known as the Climate-Resilience Law.
 - ▶ Objective "zero net artificialisation" (ZAN), which aims to reduce the rate of artificialisation in 10-year increments
 - ▶ prohibit new large commercial surfaces, with a possible exemption for a sales area of less than $10000m^2$
 - ▶ conversion bonus extended to electrically assisted bicycles.

Phases of impulse of the instruments (6/6)

- 2023 : The law of 20 July 2023 aims to support local elected officials in the implementation of the Climate and Resilience Law.
 - ▶ the creation of a regional conciliation commission on land artificialisation ;
 - ▶ the accounting at national level, rather than regional or local level, of the consumption of natural, agricultural and forest areas (ENAF) by national or European projects (464, PENE) of major public interest ;
 - ▶ specific characteristics of certain municipalities (isolation, coastal or mountain areas, agricultural issues, etc.).
- 2024 : Reform of MaPrimeRénov.
- 2025 : RE2025 lowers thresholds to be met in terms of carbon emissions from new buildings. New types of construction would include : hotels, restaurants, shops, nursing homes, libraries, higher education buildings, conservatories.

Evolution of French environmental concerns (1/2)

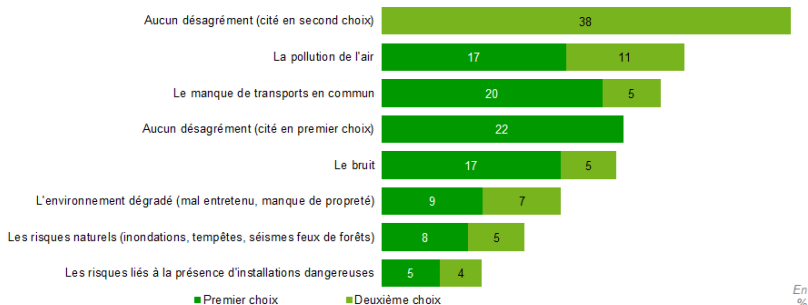
Among the following problems related to environmental degradation, which one do you find the most worrying?



Source : SDES, 2024. Préoccupations environnementales des Français.

Evolution of French environmental concerns (2/2)

Among the following problems, which one concerns your neighborhood the most ?



Source : SDES, 2024. Préoccupations environnementales des Français.

Shift from instruments of constraint to instruments of concertation

Instrument of public action

It is both a technical and social mechanism that organizes specific social relationships between the public authority and its beneficiaries according to the representations and meanings it carries.

Instrumentation is the set of problems posed by the choice and use of tools that make it possible to materialize and operationalize government action.

HALPERN, LASCOUMES et LE GALÈS 2014

Choice of instruments

Public Policy Toolkit - Salzman's 5Ps

- Prescription : prescriptive regulations.
- Property : property rights.
- Penalties : sanctions.
- Persuasion : awareness.
- Payment : compensation.

SALZMAN 2013

Prescription : prescriptive regulation (1/3)

Prescriptive regulation :

- specify what parties can and cannot do ;
- it is both the most direct and the most common form of environmental law.

For example, in the context of overgrazing of the commons, the government may limit the number of sheep, or restrict grazing in a particular season or period.

We see prescriptive regulations at all levels of environmental governance : from hunting permits at the local level and effluent limits under the Clean Water Act at the national level, to restrictions on water access.

Prescription : prescriptive regulation (2/3)

Prescriptive regulation :

- also known as *command-and-control regulation*: prescriptive regulation can be very effective in imposing compliance on all stakeholders ;
- it avoids problems of exclusion or collective action ;
- if implemented over a wide geographic area, it can also prevent a *race to the bottom*, in which regulated parties seek out territories with less stringent requirements.

Prescription : prescriptive regulation (3/3)

Arguments for prescriptive regulation :

- Obligations for better environmental performance through prescriptive regulations can actually increase efficiency and productivity, which often translates into benefits for the company.
- PORTER et LINDE 1995 has argued that strict environmental regulations encourage innovations in production processes and design. These cost savings, according to Michael Porter, can exceed the costs of regulatory compliance and innovation, resulting in greater competitiveness.

Property : droits de propriété

- Prescriptive regulations can be combined with property rights.
- These property rights are created for the use of the resource.
- The market has no role in determining the overall level of environmental protection. That is the role of the regulatory regime.

Example : Tradable permits on environmental markets

Trading systems use the market to make prescriptive regulation more effective. The government decides how much of the harmful activity to allow (as it would under prescriptive regulation), and grants private rights to engage in that activity up to the regulatory cap, and then authorizes trading in those negotiated rights.

Financial Penalties : sanctions

- Failing to prohibit an activity, the second most effective way to limit this behavior is to make it more costly : either through fees, taxes or through liability.
- By increasing the cost of polluting activities, these penalties discourage pollution and waste, and force the polluter to bear the costs of his activities.
- The polluter internalizes the negative externalities of his behavior.

Persuasion : awareness

- A more flexible approach can be found in laws requiring the production and dissemination of information. Sometimes described as reflexive laws, these approaches are based on the theory that government can change people's behavior by forcing them to think about the harm they cause and by making that harm public.
- In the context of the commons, government can require polluters to register and report on its activities.
- Government can also try to train, present the causes and dangers, or sponsor a pilot project that demonstrates more effective ways to manage the commons.

Financial Payment : compensation (1/2)

- The government can discourage certain polluting activities through penalties or, similarly, it can use subsidies to encourage beneficial activities.
- As well, the government can use penalties to capture negative externalities and make bad activities more costly, it can use payments to capture positive externalities and make good activities less costly.

Financial Payment : compensation (2/2)

Example : Environmental subsidies

- California has embarked on a massive tax incentive program for homeowners who install solar panels.
- Another example is the payment of a scrappage incentive to get old high-polluting cars off the road.
- The payment of subsidies to farmers to set aside cropland to prevent erosion or to provide habitat for wildlife. This is the approach underlying the Payments for Ecosystem Services strategy.