

APPENDIX A

Assessment of Complaints Received



The Texas Commission on Environmental Quality receives thousands of complaints each year from Texans concerned about various environmental matters.

In these communications, the complainant relates a situation or event in which a possible environmental, health, or regulatory violation has occurred. Typically,

complaints are submitted to the agency by phone, e-mail, or letter, and then forwarded to one of its 16 regional offices for response. The agency maintains a 24-hour

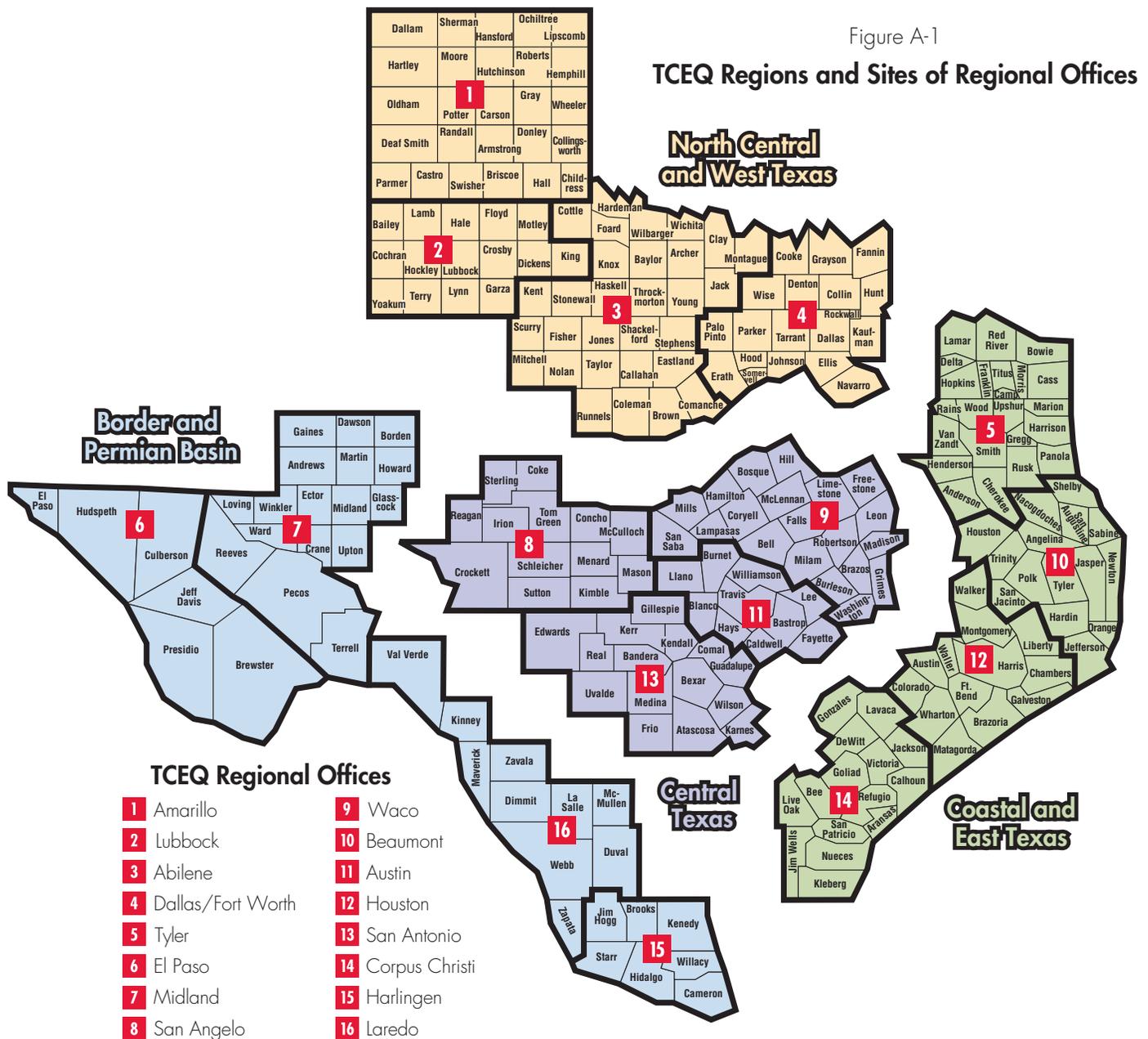


Figure A-2
Complaints by Region
FY 2011

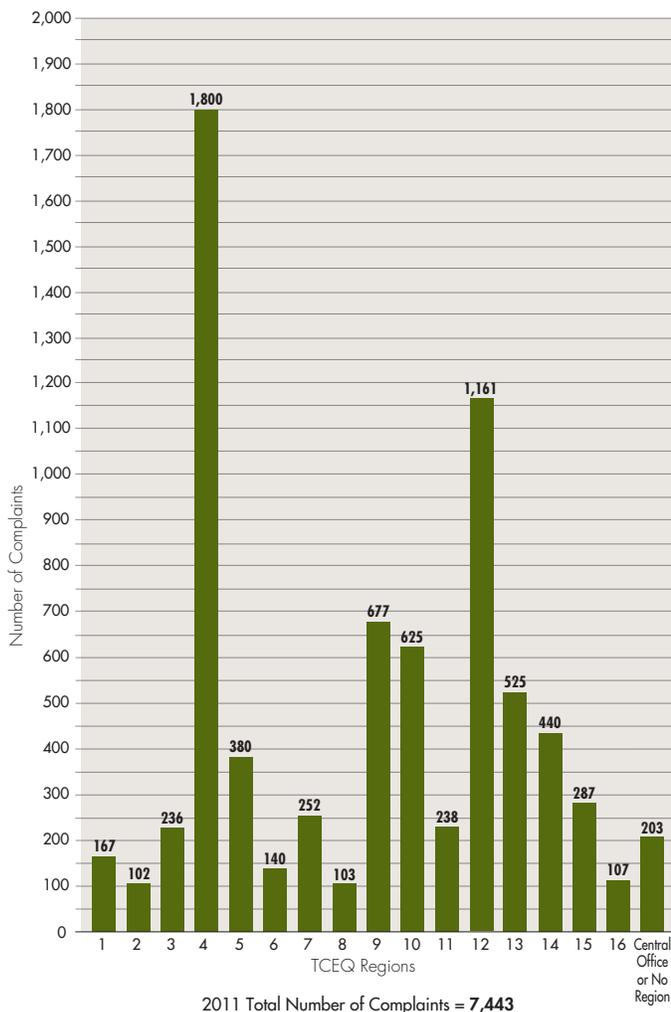
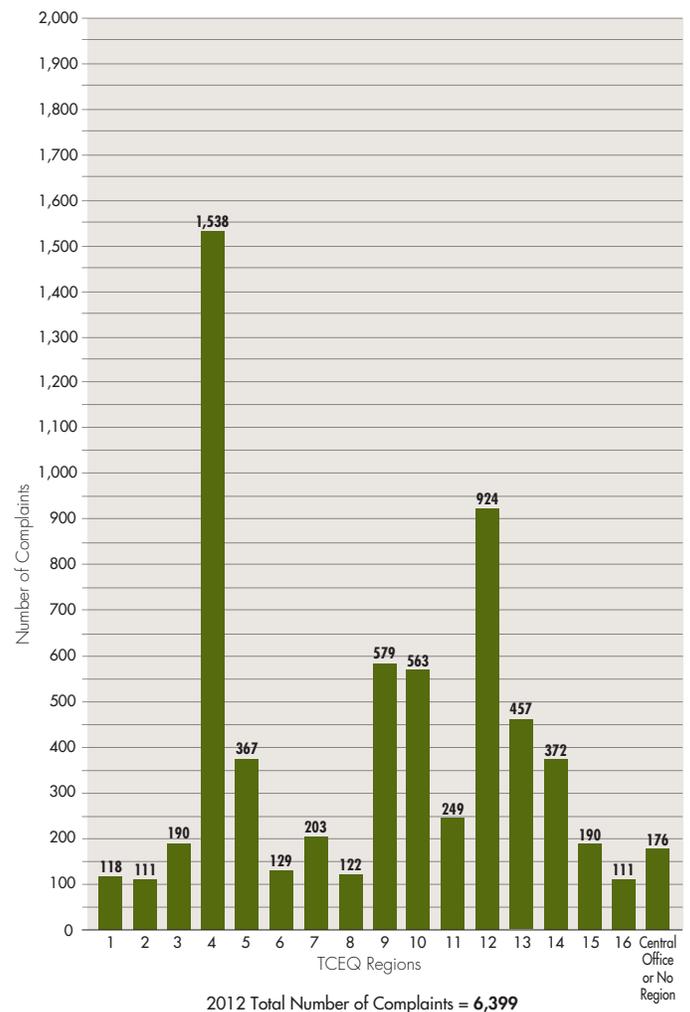


Figure A-3
Complaints by Region
FY 2012



toll-free hotline (888-777-3186) for receiving such calls.

Legislation requires the TCEQ to review the complaints received each year, including analyses by the following categories:

- region
- environmental media (air, waste, and water)
- priority classification
- enforcement action
- commission response
- trends by complaint type

The agency is also required to assess the impact of any changes made in the commission's complaint policy. This analysis is conducted and submitted in accordance with Sections 5.1773 and 5.178 of the Texas Water Code.

Complaint Data Collection and Reporting

After an environmental complaint is received by the Office of Compliance and Enforcement, the data related to the initial complaint is recorded in the Consolidated Compliance and Enforcement Data System (CCEDS). If an investigation is warranted, regional managers assign the complaint to an investigator, who is responsible for investigating the complaint and entering all resulting data into the CCEDS. Management reviews, approves, and closes the investigation and a record is entered directly into the data system.

All of the data summarized in this chapter was extracted from the CCEDS. This report reflects activity that occurred in the agency's 16 regions and at the Central

Office during fiscal 2011 (Sept. 1, 2010, through Aug. 31, 2011) and fiscal 2012 (Sept. 1, 2011, through Aug. 31, 2012). The data is presented in a series of charts (Figures A-2 to A-9).

Complaints by Region

In fiscal 2011, the TCEQ regions received a total of 7,443 complaints; in fiscal 2012, the total was 6,399. Figures A-2 and A-3 show the complaints received annually.

The data show that the number of complaints received varies generally according to regional population. For example, 39 percent of all the complaints were received from the two largest metropolitan areas, Dallas-Fort Worth and Houston (24 percent and 15 percent, respectively).

Complaints Received by Environmental Media (Air, Waste, and Water)

Total complaints received can be analyzed by environmental media (air, waste, and water) statewide and by region or central office. By media, water complaints represent the largest number of complaints received, as seen in Figure A-4.

For years air complaints constituted the largest portion of total complaints received statewide, beginning in fiscal 2003 with the TCEQ's first reporting of complaints received. But in fiscal 2009 and 2010, the agency received more complaints related to water than air. The data reflect an apparent increase in the interest and concerns that Texans have regarding their water quality and water resources, such as water rights. In comparison to fiscal 2009 and 2010, the TCEQ experienced an increase in complaints during drought conditions when water-right holders were asked to take steps to conserve water, implement their drought contingency plans, and prepare for suspensions or curtailments.

This trend is demonstrated in Figures A-5 and A-6, which show the distribution of complaints received by region and by media.

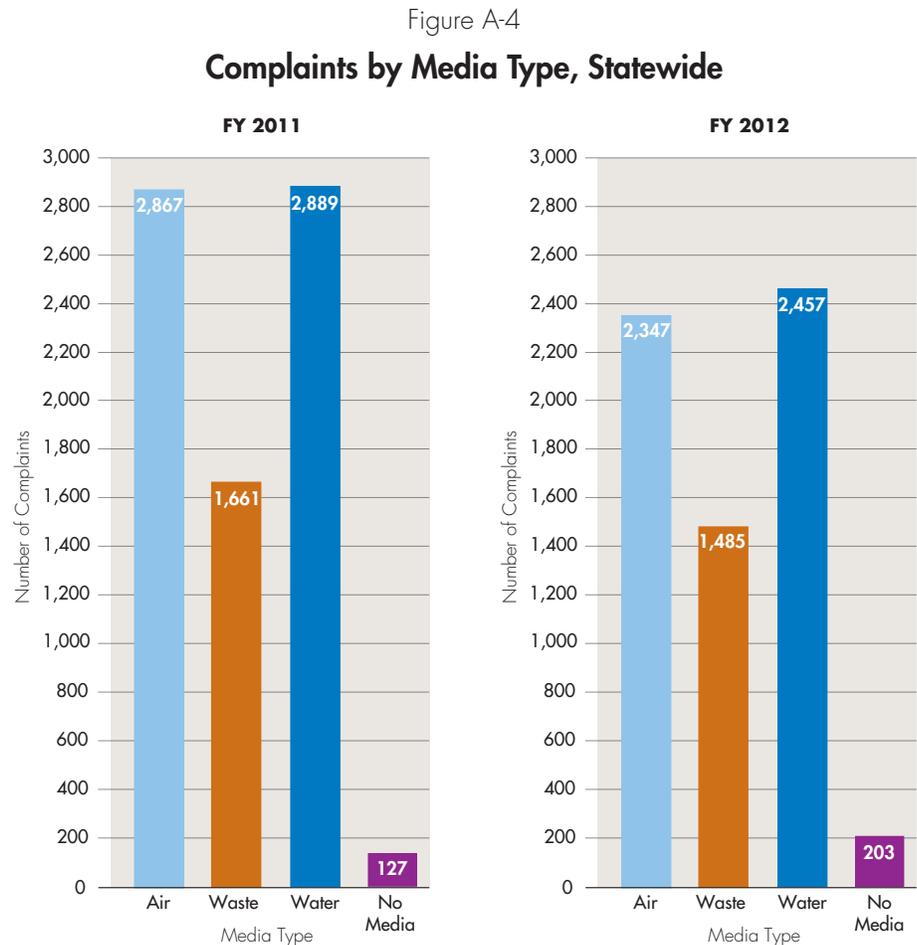
Water complaints in fiscal 2011 outnumbered air complaints in 10 of the 16 regions; in fiscal 2012, in 11 regions. By comparison, water complaints in fiscal 2009 outnumbered air complaints in nine regions; and in fiscal 2010, in 10 regions. Air complaints continued to be the leading category in the heavily populated region of Dallas-Fort Worth for fiscal 2011 and 2012.

Complaints Received by Priority Level

Complaints received in regional offices are prioritized in the following categories, based on their relative threat to public health, safety, or the environment. Each priority level represents a prescribed response time. The priority levels are:

Immediate response required.

Response time is as soon as possible, but no later than 24 hours from receipt. This classification includes a new category established by the 81st Legislature of response within



18 hours for odor complaints involving certain types of poultry operations.

Respond within one working day. As soon as possible, but no later than one working day from receipt.

Respond within five working days. As soon as possible, but no later than five working days from receipt.

Respond within 14 calendar days. As soon as possible, but no later than 14 calendar days from receipt.

Respond within 30 calendar days. As soon as possible, but no later than 30 calendar days from receipt.

Respond within 45 calendar days. As soon as possible, but no later than 45 calendar days from receipt.

Respond within 60 calendar days. As soon as possible, but no later than 60 calendar days from receipt.

Respond within 90 calendar days. As soon as possible, but no later than 90 calendar days from receipt. This category was added in fiscal 2008 for use only with complaints related to the recycling of electronic components.

Refer or do not respond. This classification is for complaints that, due to jurisdictional issues, are referred to other authorities for investigation, or for complaints that the TCEQ does not routinely investigate but needs to track for special projects, as determined by management.

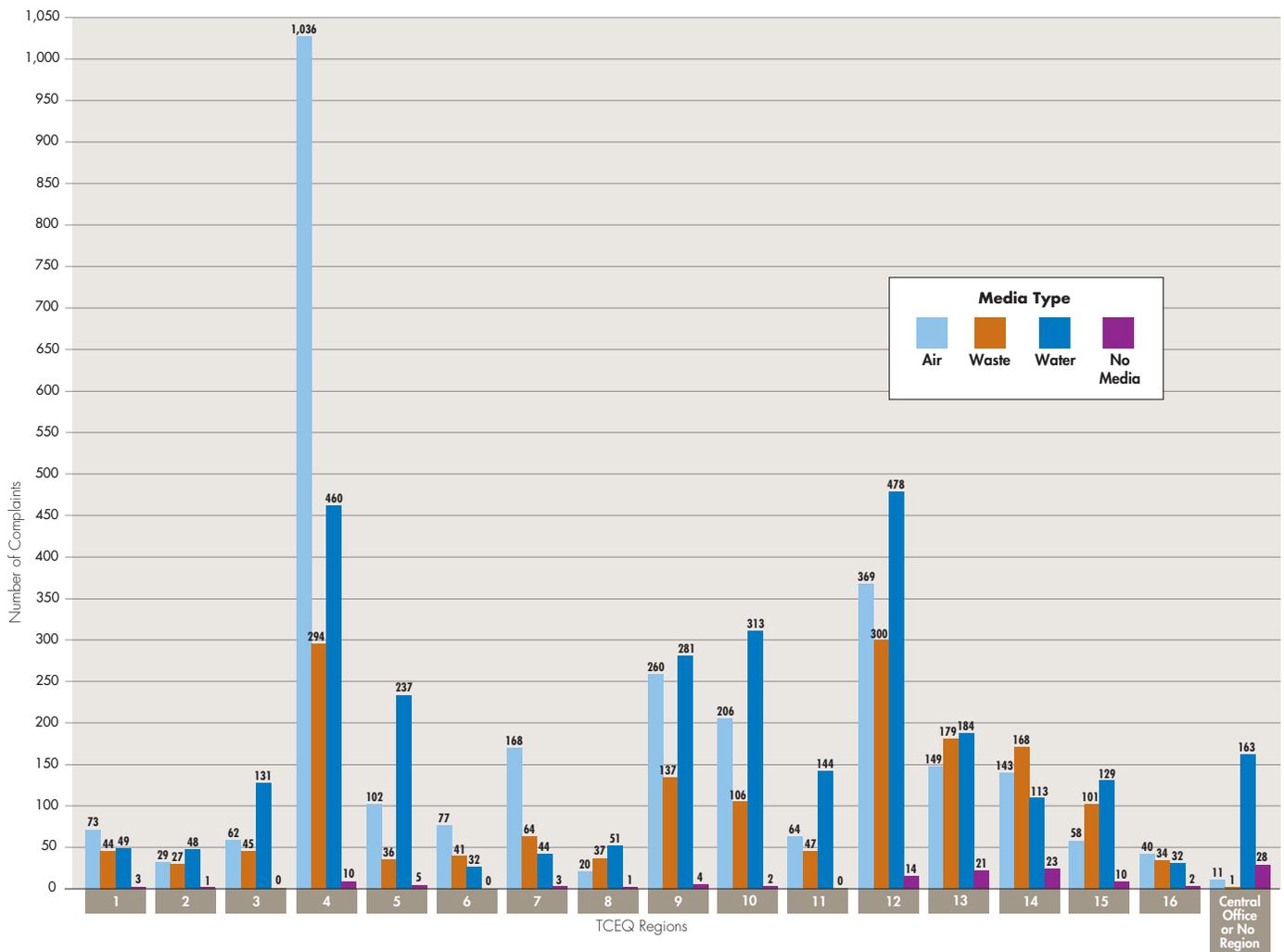
For this report, the distribution of complaints is shown by priority classification statewide (Figure A-7). Approximately 81 percent of the complaints received during the last two years were classified as requiring investigation in 30 calendar days or less.

Other specified time frame. This classification is for special projects that occur as on-demand events. Response time is based on management's evaluation of the project and the overall staff workload.

Complaints that Trigger Enforcement Action

All complaint investigations are conducted according to priority levels, as described above. Subsequent action depends on the

Figure A-5
Complaints by Region & Media Type
FY 2011



Total Number of Air Complaints = **2,867** Total Number of Waste Complaints = **1,661** Total Number of Water Complaints = **2,889** Total Number of No Media Complaints = **127**

outcome of the investigation. For about 75 percent of the complaints received, no specific enforcement action is necessary. But in some cases, the agency must take enforcement action in the form of a Notice of Violation (NOV) or a Notice of Enforcement (NOE).

Issuance of an NOV indicates that TCEQ rules have been violated, but that the violation is not considered serious enough to require an enforcement order and that the case is expected to be resolved quickly within a time frame specified by the investigating office.

An NOE is issued when a substantial violation of TCEQ rules has been documented and formal action is required. Often, an

NOE leads to the assessment of administrative penalties.

In fiscal 2011, the agency issued 1,445 NOVs and 327 NOEs as a result of complaint investigations; in fiscal 2012, the totals were 1,053 NOVs and 239 NOEs (Figure A-8).

Complaints Investigated by Program Type

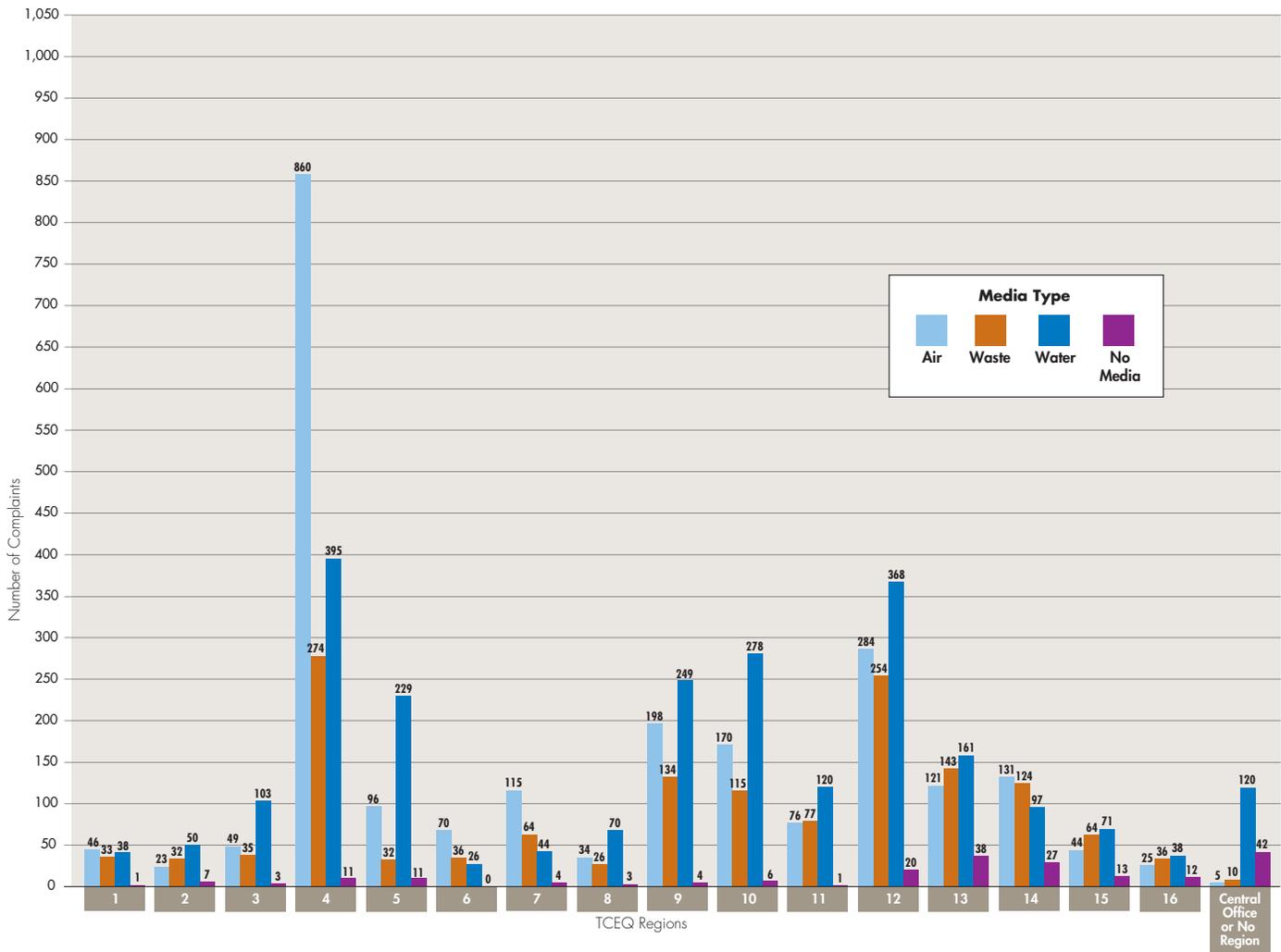
Another analysis is by the type of investigation conducted to address each complaint—the program type. In the CCEDS, air complaints are not subdivided by program type, but waste and water media each have several subcategories of programs.

The waste program types are dry cleaners, emergency response, petroleum storage tanks (including Stage II vapor recovery), industrial and hazardous waste, and municipal solid waste.

The water program types are animal-feeding operations, the Edwards Aquifer Protection Program, on-site sewage facilities, public water supply, water rights, and water quality. Water quality also comprises several program sub-types (sludge transporters, beneficial use, stormwater, and municipal and industrial wastewater treatment, and pretreatment); however, these sub-types are not listed separately in this analysis.

Figure A-9 shows the number of complaint investigations that were conducted in

Figure A-6
Complaints by Region & Media Type
FY 2012



Total Number of Air Complaints = 2,347 Total Number of Waste Complaints = 1,485 Total Number of Water Complaints = 2,457 Total Number of No Media Complaints = 203

Figure A-7
Complaints by Priority, Statewide

Priority	FY 2011	FY 2012
Other	73	74
Immediate	727	394
1 day	236	210
5 days	190	217
14 days	1,353	1,050
30 days	3,599	3,257
45 days	28	23
60 days	35	57
Refer	1,202	1,117

each program type. In fiscal 2011, 5,608 complaint investigations were conducted in response to the 7,443 complaints received. Another 1,202 complaints were prioritized for referral or no agency response (as indicated in Figure A-7). The remaining 633 complaints were either investigated in conjunction with other complaints, or were associated to investigations that were not yet approved in fiscal 2011.

In fiscal 2012, 3,943 investigations were conducted in response to 6,399 complaints received. Another 1,117 complaints were prioritized for referral or no response. The remaining 1,339 complaints were either investigated in conjunction with other complaints, or were associated with investiga-

tions that were not yet approved in fiscal 2012. In fiscal 2011, air complaint investigations made up 39 percent of the total; water complaint investigations, 39 percent; and waste investigations, 21 percent. In fiscal 2012, air investigations were 37 percent of the total; water investigations, 38 percent; and waste investigations, 23 percent.

Typically, a small number of complaint investigations (about 1 percent in fiscal 2011, and less than 1 percent in fiscal 2012) do not fall under the specific program areas listed in this report.

Conclusions

The complaint data for fiscal 2011 and 2012 are typical of complaints received and 45

Figure A-8

Complaints Resulting in NOVs & NOEs, Statewide



investigated in previous years, with minor variations within some analysis categories.

The trend of an increasing percentage of complaints occurring in the water program continued through fiscal 2010, but has declined in fiscal 2011 and 2012. Fiscal 2011 saw a peak in complaints (primarily air related) in the North Central Texas Barnett Shale area—resulting in a slight increase in total complaints received,

and a more significant increase in air complaints received in that region. In response to this public concern, the TCEQ has undertaken a significant effort to monitor and characterize emissions and air quality related to these gas-production facilities, and to identify regulatory approaches to alleviating these concerns. (See description of Barnett Shale, page 6.)

Figure A-9

Complaint Investigations by Program Type

Program Type	FY 2011	FY 2012
Animal Feeding Operations	161	84
Air Quality	2,404	1,651
Dry Cleaners	2	0
Edwards Aquifer	28	16
Emergency Response	17	14
Industrial/Hazardous Waste	211	150
Municipal Solid Waste	715	499
On-Site Sewage Facilities	183	154
Petroleum Storage Tanks	202	154
Public Water Supply	863	511
Water Quality	759	694
Water Rights	117	70
Landscape Irrigator Operator Licensing	3	55
No Program Assigned*	88	7
Total	5,753**	4,059†

* "No Program Assigned" includes complaint investigations that cannot be categorized in the listed program areas, or complaints occurring at the end of the fiscal year that have not yet been assigned to a program area.

** The number of complaints investigated and approved in FY 2011 is 5,608. However, since some complaints are investigated by multiple programs, the total number of complaint investigations may appear greater.

† The number of complaints investigated and approved in FY 2012 is 3,943. However, since some complaints are investigated by multiple programs, the total number of complaint investigations may appear greater.

Finally, the analysis of complaint investigations by program type reflects the fact that the TCEQ places a high priority on investigating citizen complaints. All complaints received are reviewed by management, prioritized according to potential impact on public health or the environment, and either investigated in accordance with the assigned priority or, if not within the jurisdiction of this agency, referred to the appropriate authority.