APPENDIX A

Assessment of Complaints Received

Grotto in Westcave Preserve, photo courtesy Michael A. Murphy | TxDOT

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 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 Field Operations, 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. Review, approval, and closure of the investigation is performed by management and 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 during fiscal 2009 (Sept. 1, 2008, to Aug. 31, 2009) and fiscal 2010 (Sept. 1, 2009, to Aug. 31, 2010). The data is presented in a series of charts (Figures A-2 to A-9).

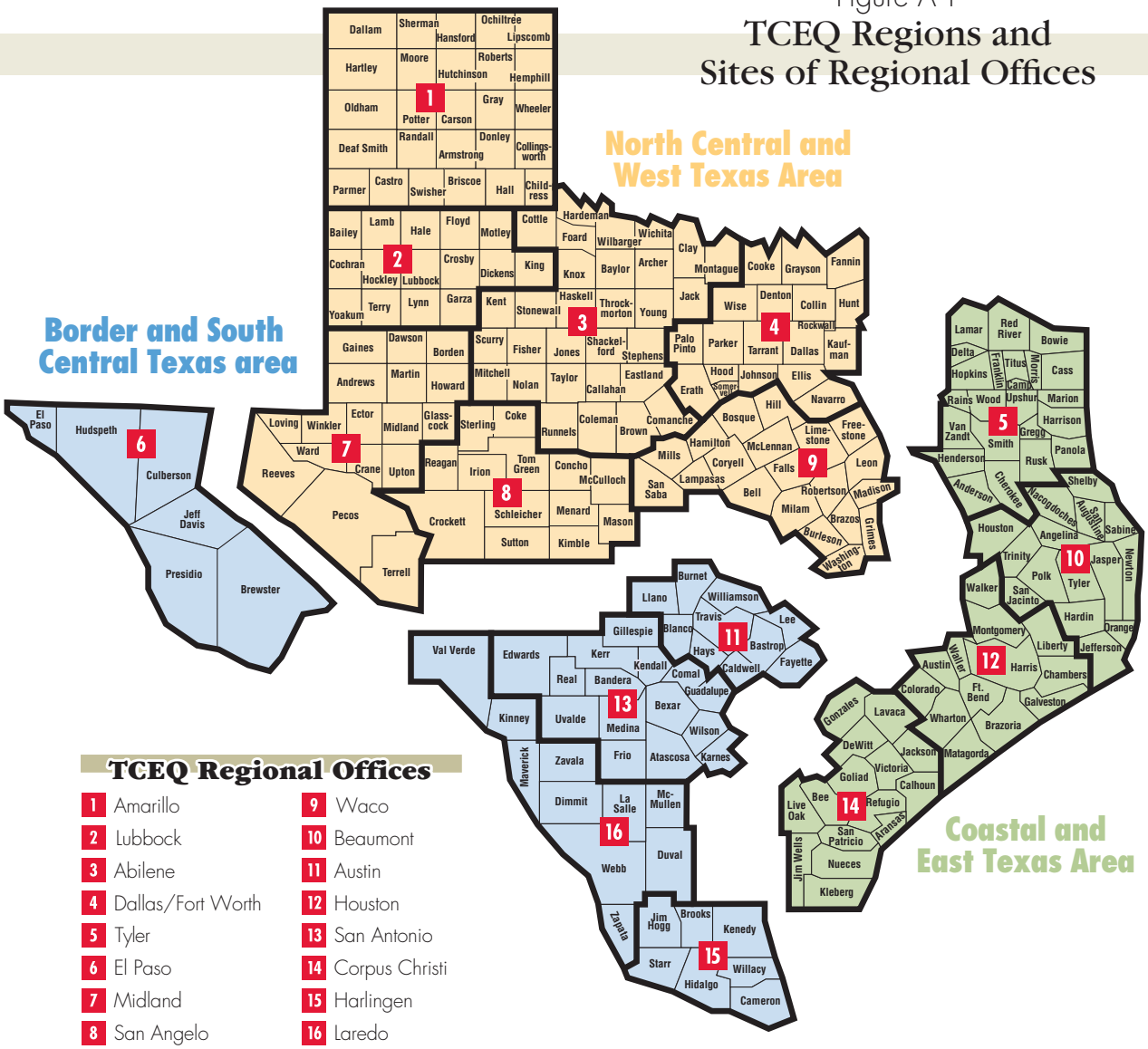
Complaints by Region

In fiscal 2009, the TCEQ regions received a total of 6,793 complaints; in fiscal 2010, the total was 7,277. Figures A-2 and A-3 show the complaints received annually by each TCEQ region.

The data shows that the number of complaints received varies generally according to regional population. For example, 40 percent of all the complaints were received from the two largest metropolitan areas, Dallas–Fort Worth and Houston (22 percent and 18 percent, respectively).

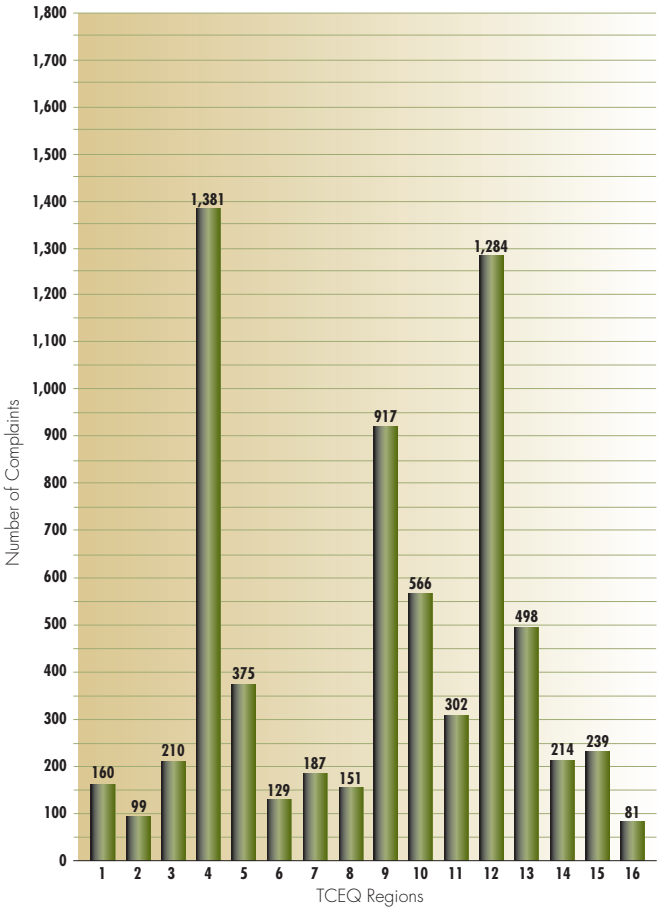
The number of complaints received in the Dallas–Fort Worth region in previous years averaged about 20 percent.

Figure A-1
TCEQ Regions and Sites of Regional Offices



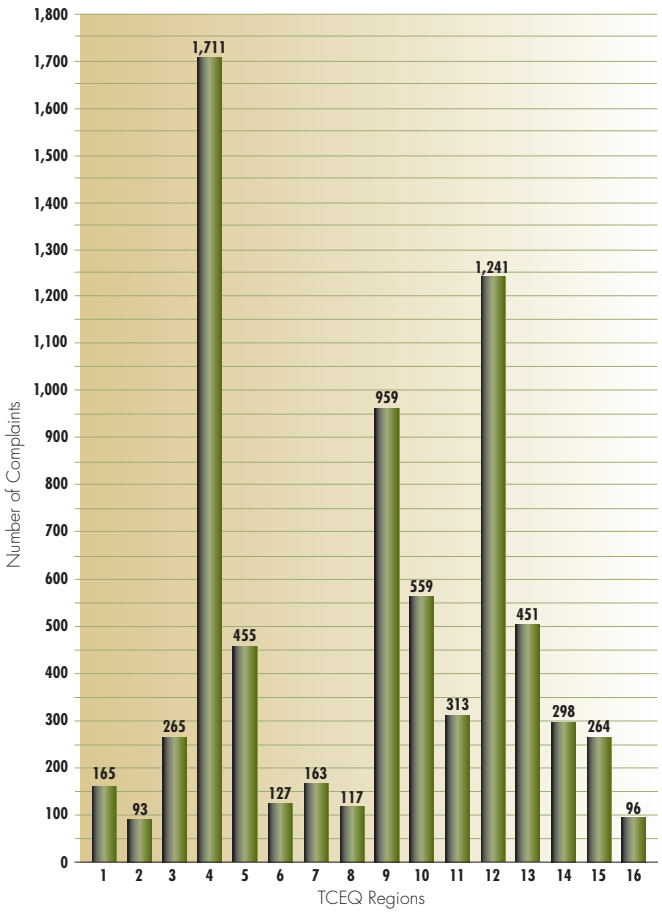
APPENDIX A

Figure A-2
Complaints by Region
FY 2009



2009 Total Number of Complaints = 6,793

Figure A-3
Complaints by Region
FY 2010



2010 Total Number of Complaints = 7,277

APPENDIX
A

The region's increase in complaint activity for FYs 2009 and 2010 may be attributed to heightened public awareness and concern about gas production activities in the 23-county Barnett Shale area. The total number of complaints received in the Dallas–Fort Worth region increased by 330—from 1,381 in fiscal 2009 to 1,711 in fiscal 2010. This represented 68 percent of the total increase in statewide complaints, which were up by 484 in fiscal 2010.

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

Total complaints received can be analyzed by environmental media (air, waste, and water) on a statewide basis and by regions. 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 FYs 2007 and 2008, the agency received more complaints related to water than air. This trend continued in FYs 2009 and 2010, despite the fact that complaints related to concerns about gas production in the Barnett Shale area have been primarily air complaints. The data reflects an apparent increase in the interest and concerns that Texans have

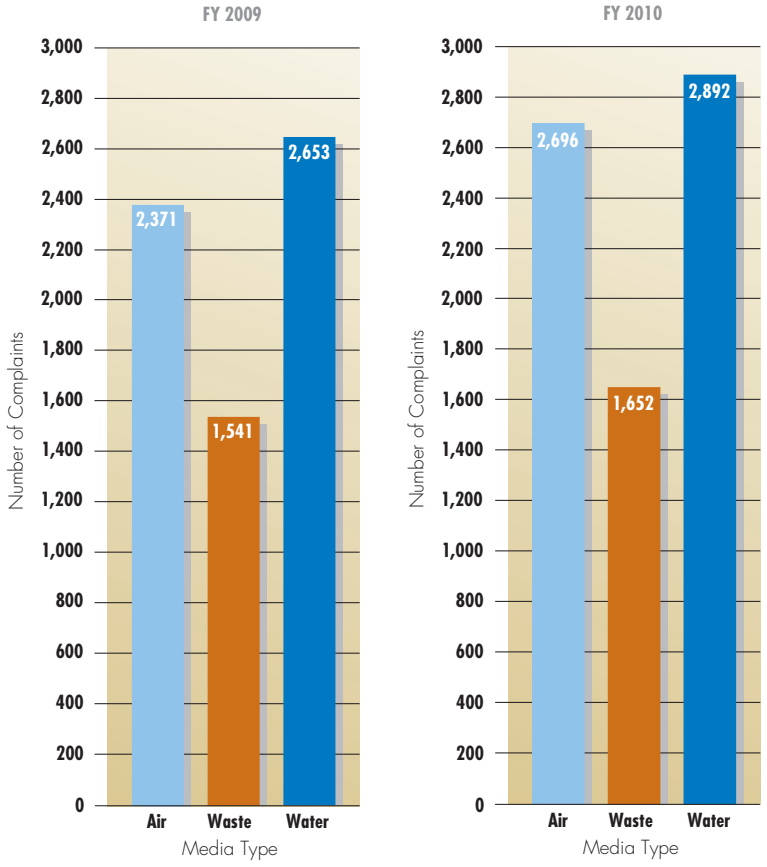
regarding their water quality and water resources. The disparity between the number of water complaints and air complaints was greater in FYs 2009 and 2010 than in previous years.

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 2009 outnumbered air complaints in nine of the 16 regions; in fiscal 2010, in 11 regions. By comparison, water complaints in fiscal 2007 outnumbered air complaints in nine regions; and in fiscal 2008, in 10 regions. This represents a general upward trend from FYs 2005 and 2006.

Air complaints continued to be the leading category in the heavily populated and industrialized regions of Dallas–Fort Worth for FYs 2009 and 2010, and of Houston for 2010. Fiscal 2009 saw more water than air complaints in the Houston region for the first time since these data have been reported. Prior to fiscal 2006, air complaint investigations within the City of Houston were recorded in the CCEDS. However, in fiscal 2006, the City of Houston opted to discontinue its contract with the TCEQ to conduct routine air quality investigations in its jurisdiction on behalf of the agency. As a result, air complaints of primarily local interest within the City of Houston have not been entered into the CCEDS, which could explain the significant reduction in air complaints in the Houston region.

Figure A-4
Complaints by Media Type, Statewide



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.

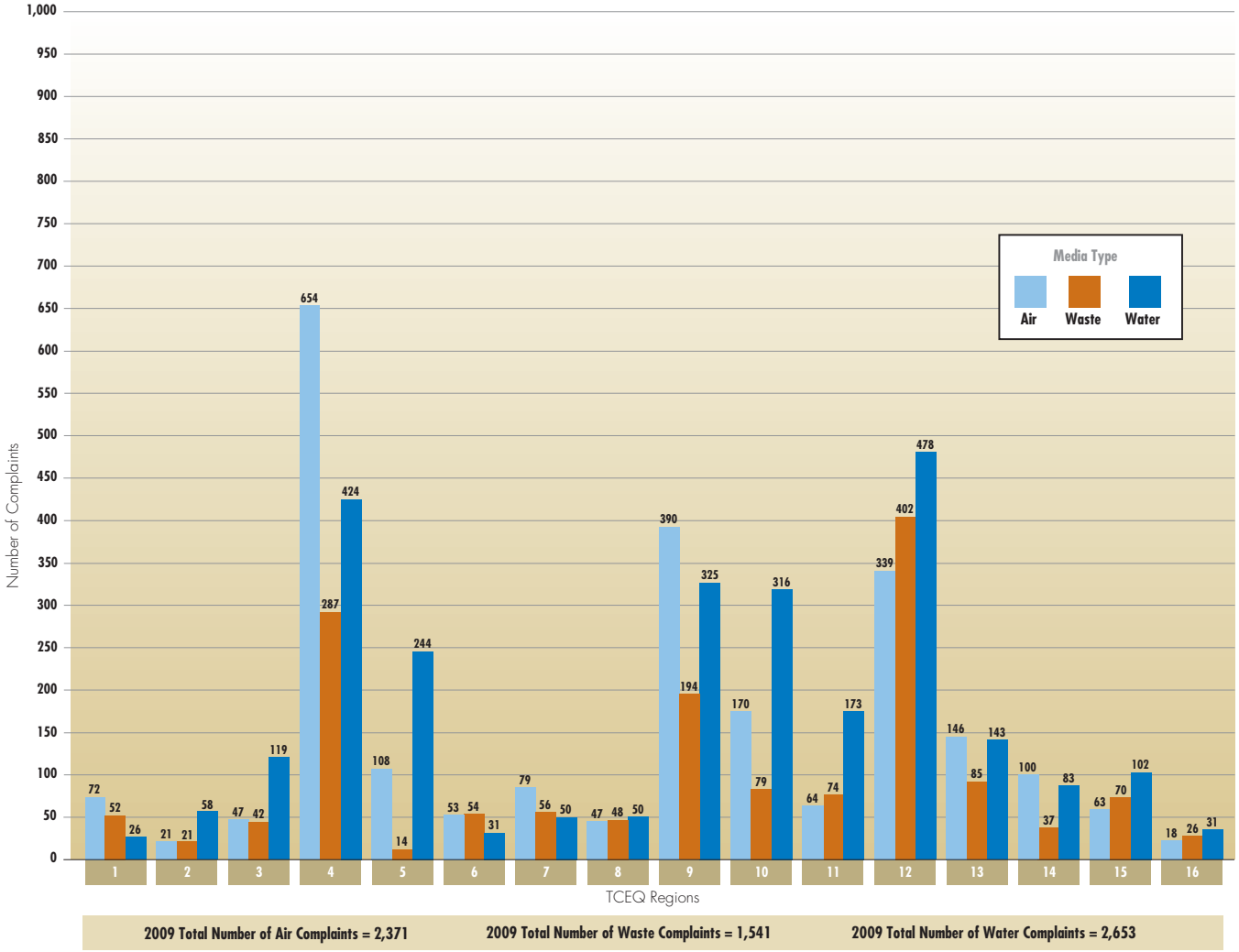
Respond within 45 calendar days. As soon as possible, but no later than 45 calendar days from receipt.

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

Figure A-5

Complaints by Region & Media Type

FY 2009



2009 Total Number of Air Complaints = 2,371 **2009 Total Number of Waste Complaints = 1,541** **2009 Total Number of Water Complaints = 2,653**

APPENDIX A

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 entities 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 80 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.

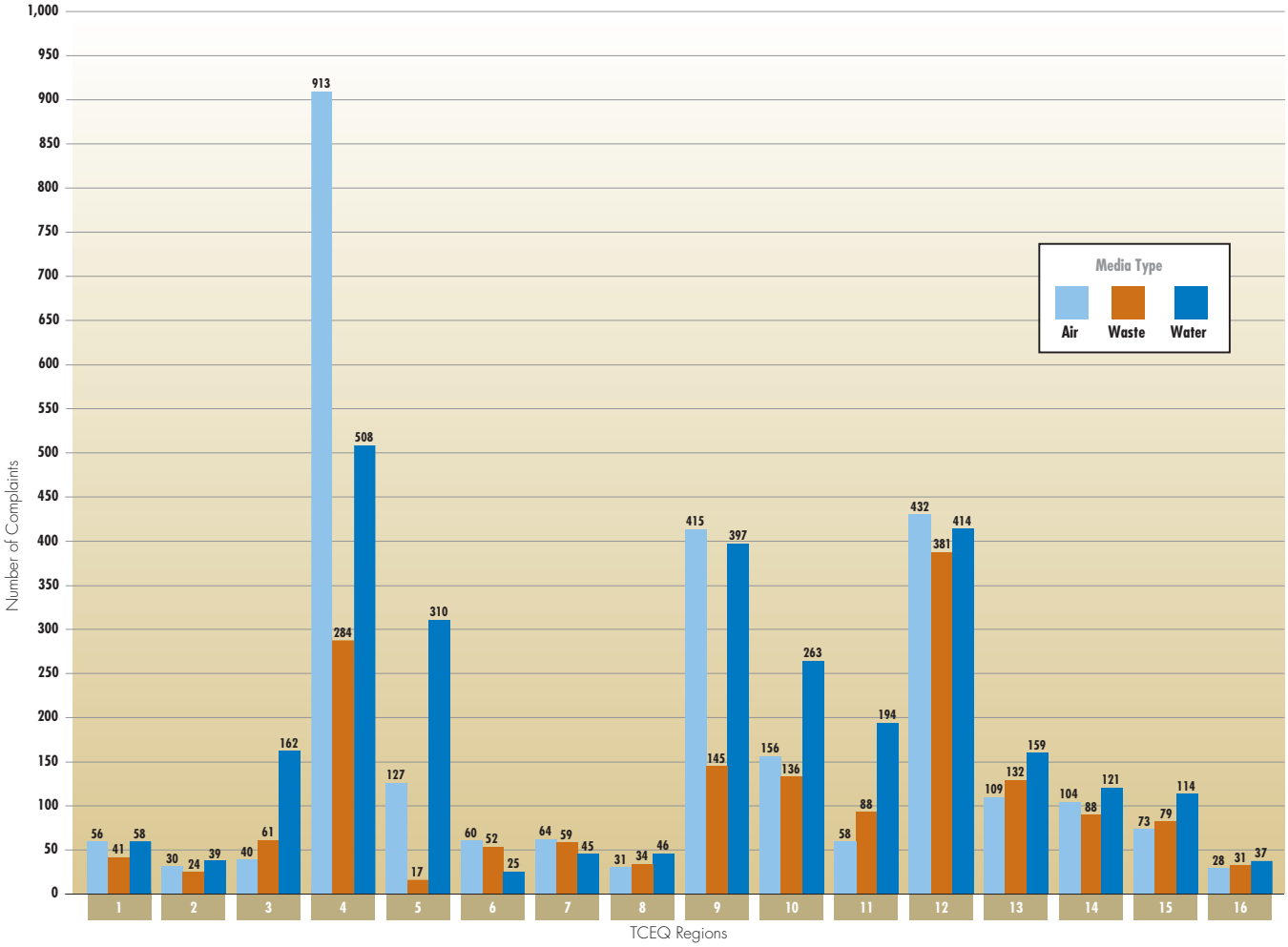
Complaints that Trigger Enforcement Action

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

Figure A-6

Complaints by Region & Media Type

FY 2010



2010 Total Number of Air Complaints = 2,696 **2010 Total Number of Waste Complaints = 1,652** **2010 Total Number of Water Complaints = 2,892**

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 regional 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 2009, the agency issued 1,370 NOVs and 296 NOEs as a result of complaint investigations; in fiscal 2010, the totals were 1,385 NOVs and 307 NOEs (Figure A-8).

Of the total complaints received, the percentage leading to NOVs and NOEs was slightly lower: 23.9 percent in FYs 2009-2010, compared to 25.7 percent in FYs 2007-2008. This was due, in part, to the level of citizen complaint activity in the Barnett Shale area. In such cases, citizen complaints

Figure A-7

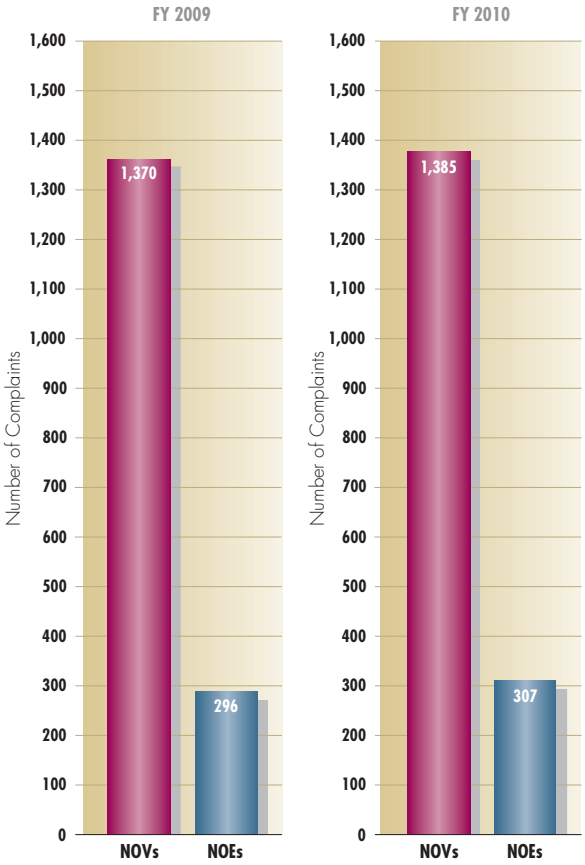
Complaints by Priority, Statewide

FY 2009		FY 2010	
Priority	**Number of Complaints**	**Priority**	**Number of Complaints**
Immediate	111	Immediate	421
1 day	229	1 day	337
5 days	200	5 days	194
14 days	1,183	14 days	1,201
30 days	4,032	30 days	3,959
45 days	80	45 days	24
60 days	79	60 days	85
Refer	1,154	Refer	1,189
Other	80	Other	257

Note: This is the only table that includes complaints received at the Austin headquarters; therefore, totals are higher.

Figure A-8

Complaints Resulting in NOVs & NOEs, Statewide



Note: Some complaints are assigned to more than one medium, and some are not assigned to any. Therefore, totals vary from total complaints received.

related to certain events may result in a single enforcement action, or may not result in the issuance of an NOV or NOE at all if it is determined that no violations have occurred.

APPENDIX A

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 in Central Texas, on-site sewage facilities, public water supply, water rights, and water quality. Water quality also comprises several program sub-types (sludge transporters, beneficial use, storm water, and municipal and industrial wastewater treatment, and pre-treatment); however, these sub-types are not listed separately in this analysis.

Figure A-9 shows the number of complaint investigations that were conducted in each program type. In fiscal 2009, there were 4,876 complaint investigations conducted in response to the 6,793 complaints received. Another 1,154 complaints were prioritized for referral or no agency response (as indicated in Figure A-7). The remaining 763 complaints were investigated in conjunction with other complaints, which explains why there were fewer complaint investigations than complaints received.

In fiscal 2010, there were 4,910 investigations conducted in response

to 7,277 complaints received. Another 1,189 complaints were prioritized for referral or no response. The remaining 1,178 complaints were investigated in conjunction with other complaints. This differential is the result of having many complainants filing complaints about the same situation, resulting in only one complaint investigation, as in the case of many of the Barnett Shale area complaints.

In fiscal 2009, air complaint investigations represented 40 percent of the total complaint investigations; water complaint investigations, 36 percent; and waste investigations, 20 percent (the same percentages as in FYs 2007 and 2008). In fiscal 2010, air investigations were 40 percent of the total; water investigations, 37 percent; and waste investigations, 21 percent.

Typically, a small number of complaint investigations (about 4 percent in fiscal 2009, and 2 percent in fiscal 2010) do not fall under the specific program areas listed in this report.

Figure A-9

Complaint Investigations by Program Type

Program Type	FY 2009	FY 2010
Animal Feeding Operations	83	66
Air Quality	1,969	1,952
Dry Cleaners	1	6
Edwards Aquifer	37	34
Emergency Response	9	16
Industrial/Hazardous Waste	220	174
Municipal Solid Waste	571	637
On-Site Sewage Facilities	205	225
Petroleum Storage Tanks	158	187
Public Water Supply	576	598
Water Quality	793	863
Water Rights	55	55
No Program Assigned	199	97
Total	4,876	4,910

Conclusions

The complaint data for the fiscal years of 2009 and 2010 are generally typical of complaints received and 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. The increase seems to reflect greater interest among communities in water issues. This is likely due to a combination of factors, including drought and continued growth in population and economic development in suburban areas where air quality may not be as significant a concern.

FYs 2009 and 2010 also saw an increase 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 "Barnett Shale," page 28.)

As in previous biennial reports, this reporting period shows that about 80 percent of the complaints received were classified as requiring investigation within 30 days of receipt.

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 entity.