

Appendix A





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.

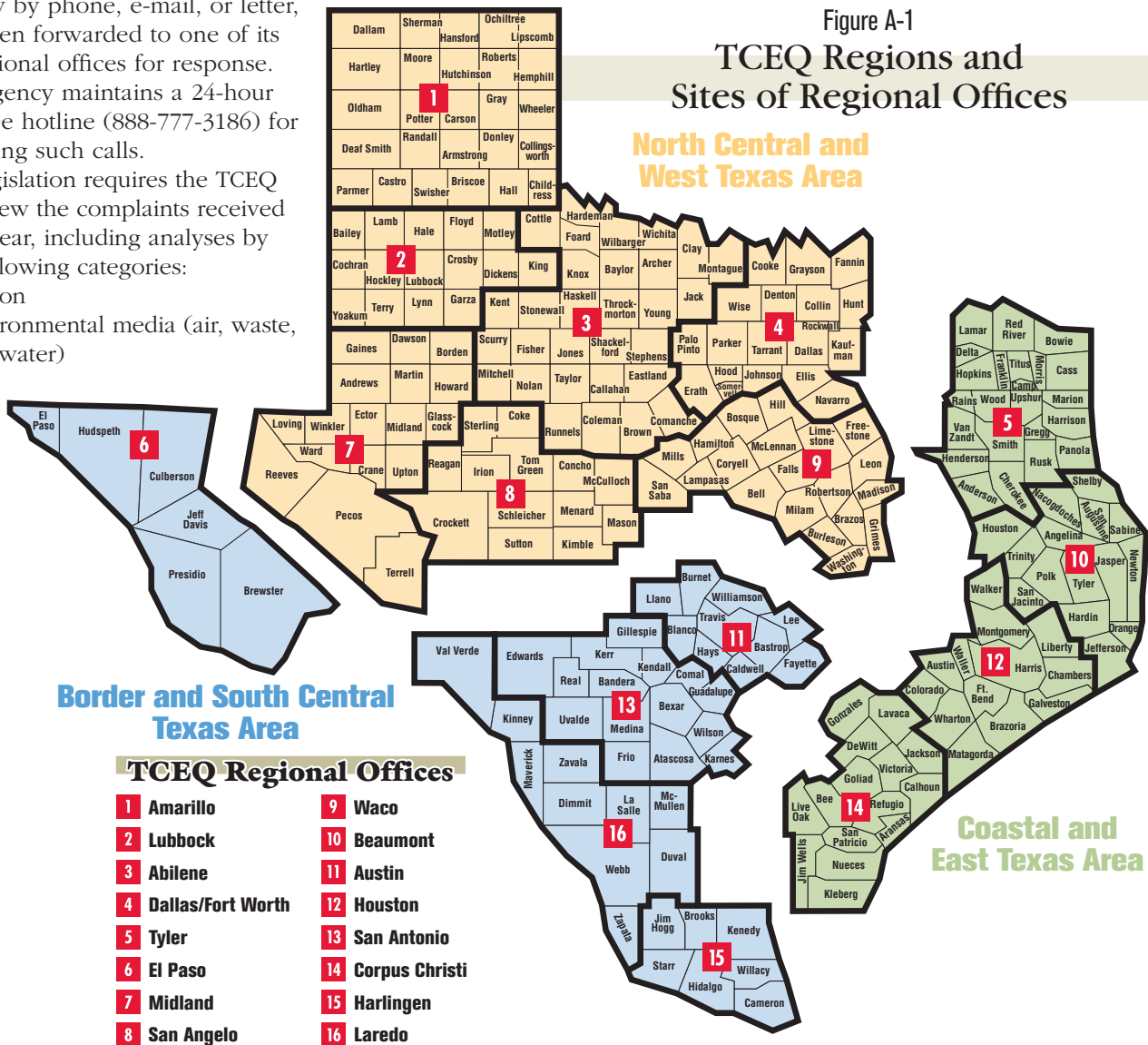
In these communications, the complainant relates a situation or event in which a possible environmental, health, or regulatory violation has occurred. Typically, complaints are submitted to the agency by phone, e-mail, or letter, and then forwarded to one of its 16 regional offices for response. The agency maintains a 24-hour 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. All of these requirements are contained in



Article 1, Section 1.17, of House Bill 2912, 77th Legislature, which amended Section 5.1773, Chapter 5 of the Texas Water Code. In addition, legislation amended Section 5.178 of the Water Code to require that a summary of these analyses be published biennially.

## Complaint Data Collection and Reporting

After an environmental complaint is received by the Field Operations Division, the data related to the initial complaint is recorded in the Consolidated Compliance and Enforcement Data System (CCEDS). Regional managers then 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 herein was extracted from the CCEDS. This report reflects activity that occurred in the agency's 16 regions during fiscal 2007 (September 1, 2006, to August 31, 2007) and fiscal 2008 (September 1, 2007, to August 31, 2008). The data is presented in a series of charts (Figures A-2 to A-9).

## Complaints by Region

In fiscal 2007, the TCEQ regions received a total of 6,973 complaints; in fiscal 2008, the total was 6,838. 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, almost 40 percent of all the complaints were received from the two largest metropolitan areas, Dallas-Fort Worth and Houston (21 percent and 18 percent, respectively).

As explained in the December 2006 report, the air complaints received from Houston are no longer entered into the CCEDS. On September 1, 2005 (the beginning of fiscal 2006), the TCEQ discontinued its contract with the city of Houston to conduct routine air quality investigations inside the city limits.

The TCEQ continued to get air complaints from other parts of Harris County, as well as the other counties in Region 12. The agency received water and waste-related complaints from all of Region 12.

For this reporting period, the complaints received from Region 12 in all environmental media totaled about 2,400. By comparison, about 2,900 were

Figure A-2  
Complaints by Region  
FY 2007

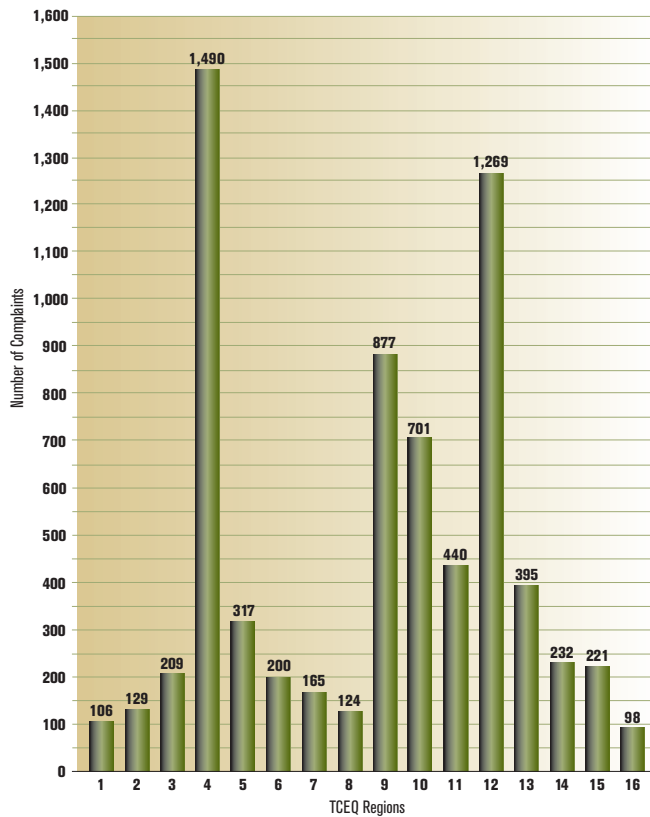
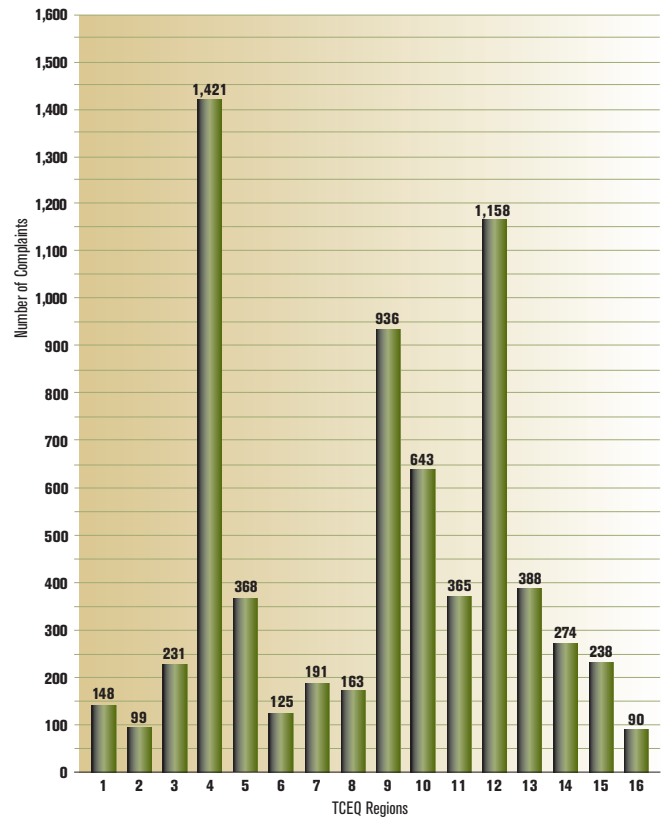


Figure A-3  
Complaints by Region  
FY 2008



received in the reporting period of FYs 2005-2006, and 4,000 in FYs 2003-2004.

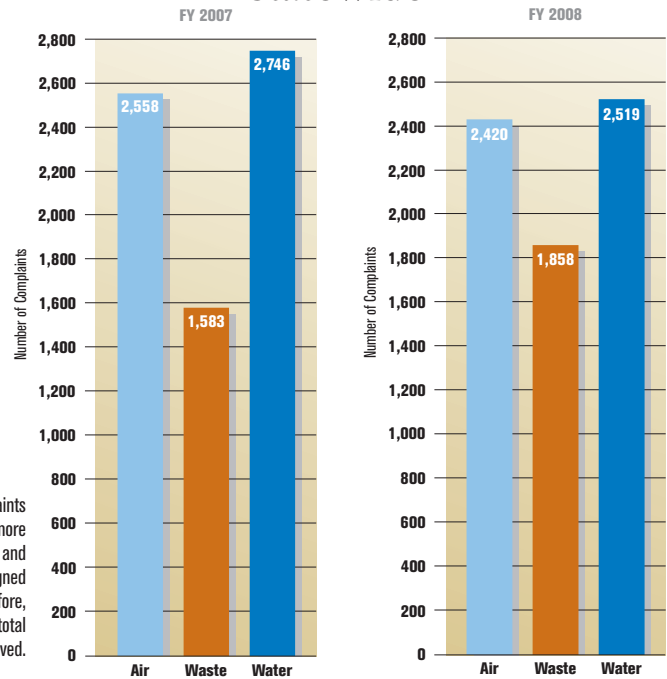
Despite the drop-off in Houston, complaints from other regions have increased. So the statewide total for this report—13,811 complaints received—exceeded the total in the last report—13,716.

## 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.

Historically, air complaints have constituted the largest portion of total complaints received statewide. In fact, since reporting of complaints received began with fiscal 2003, this was the first time that the agency received more complaints related to water

Figure A-4  
Complaints by Media Type, 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.

Figure A-5  
Complaints by Region & Media Type  
FY 2007

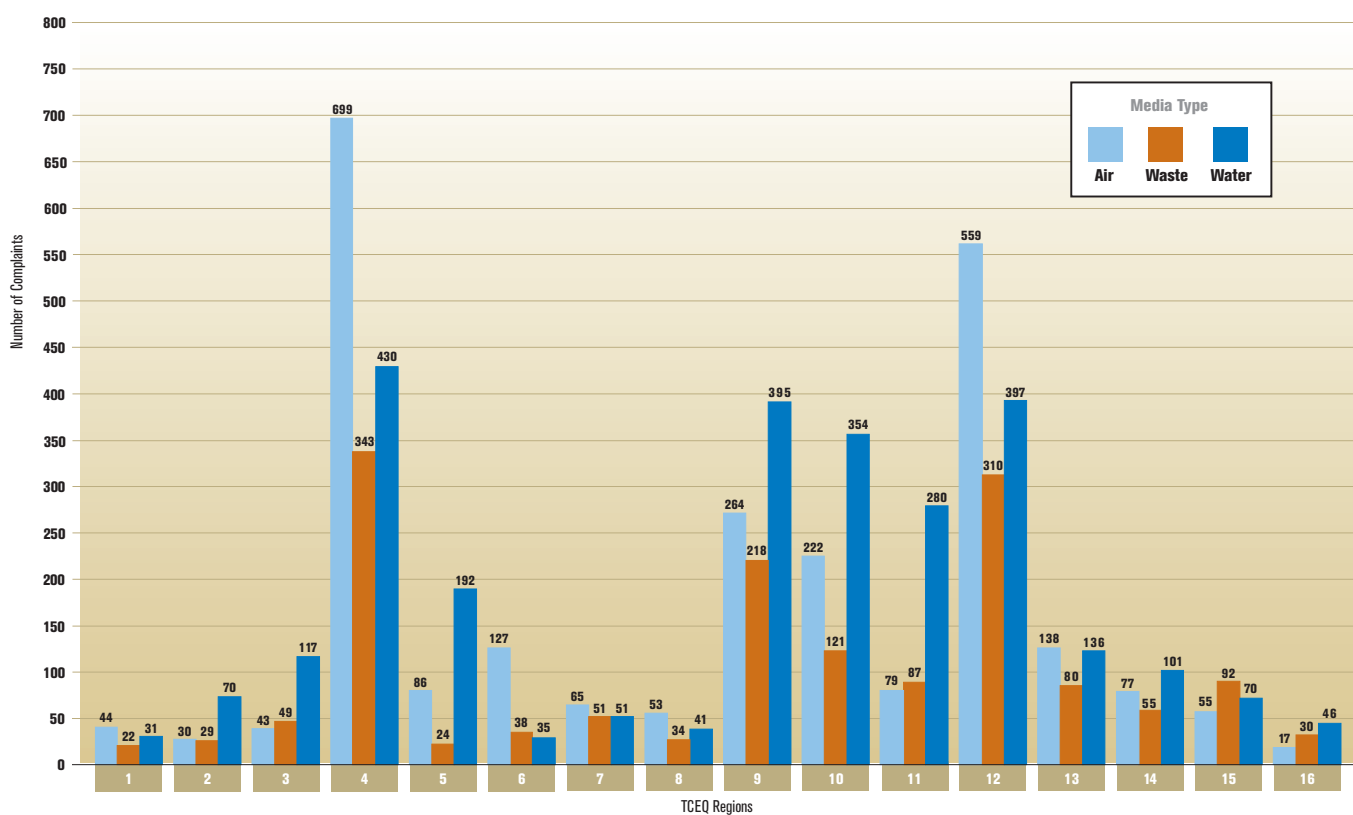
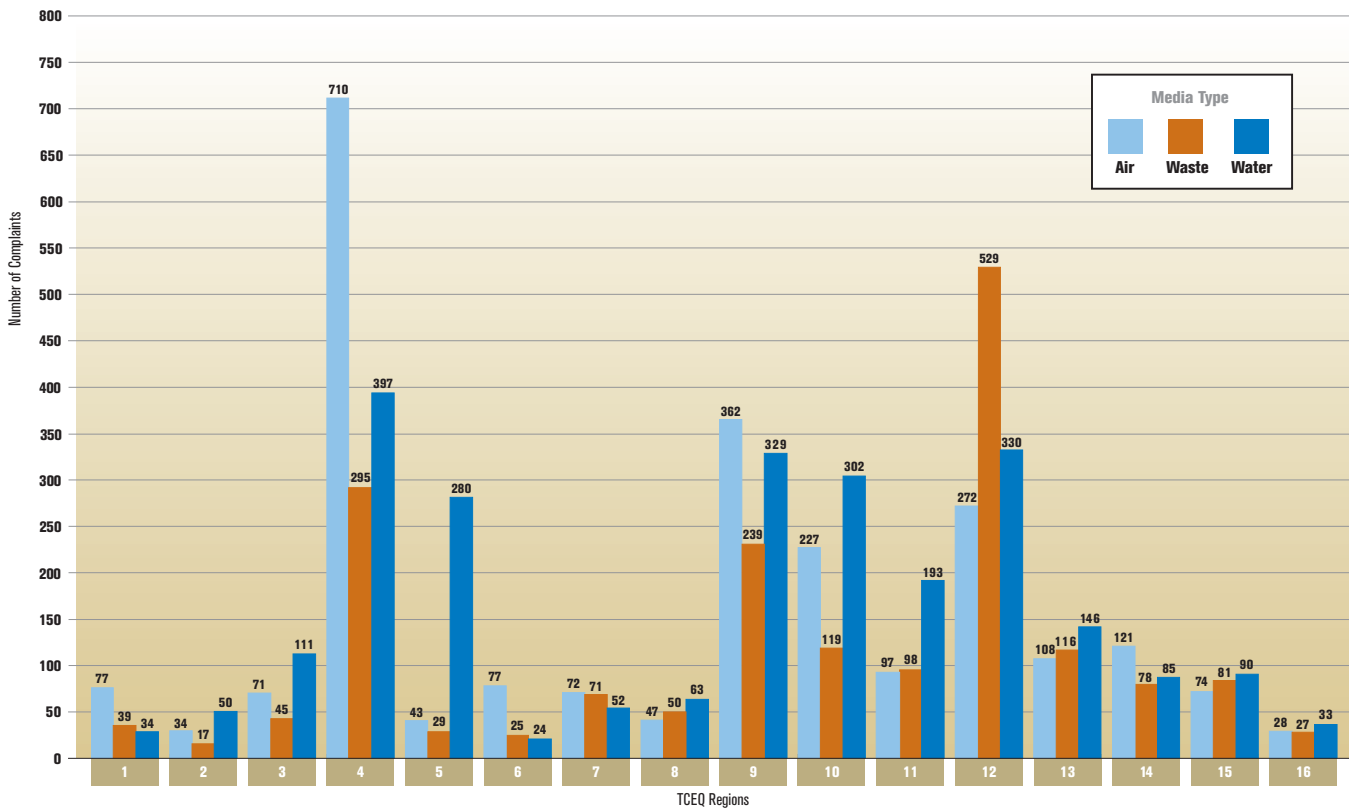




Figure A-6  
Complaints by Region & Media Type  
FY 2008



than to air. The data reflects an apparent increase in the interest and concerns that Texans have regarding their water quality and water resources.

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 2007 outnumbered air complaints in nine of the 16 regions; in fiscal 2008, in 10 regions. By comparison, water complaints in fiscal 2005 outnumbered air complaints in only seven regions; in fiscal 2006, it was up to eight regions.

For the current reporting period, air complaints continued to be the leading category in the heavily populated and industrialized regions of Dallas-Fort Worth and Houston.

The data also shows an increase in waste program complaints. In FYs 2007-2008, waste complaints totaled 3,441, topping the previous two-year total of 2,865.

## 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:

**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.

**Immediate response required.** Response time is as soon as possible, but no later than 24 hours from receipt.

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

**Respond within five calendar days.** As soon as possible, but no later than five calendar 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.

**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). More than 80 percent of the complaints received during the last two years were classified as requiring investigation in 30 calendar days or less. About 15 percent of the complaints received were classified for referral or no response (most of these were referred to another governmental entity for evaluation). The remaining complaints were prioritized for investigation within either 45 or 60 days.

Figure A-7  
Complaints by  
Priority, Statewide

FY 2007		FY 2008	
Priority	Number of Complaints	Priority	Number of Complaints
Other	44	Other	38
Immediate	107	Immediate	126
1 day	314	1 day	269
5 days	220	5 days	199
14 days	1,473	14 days	1,233
30 days	3,747	30 days	3,910
45 days	70	45 days	79
60 days	81	60 days	81
Refer	1,127	Refer	1,071

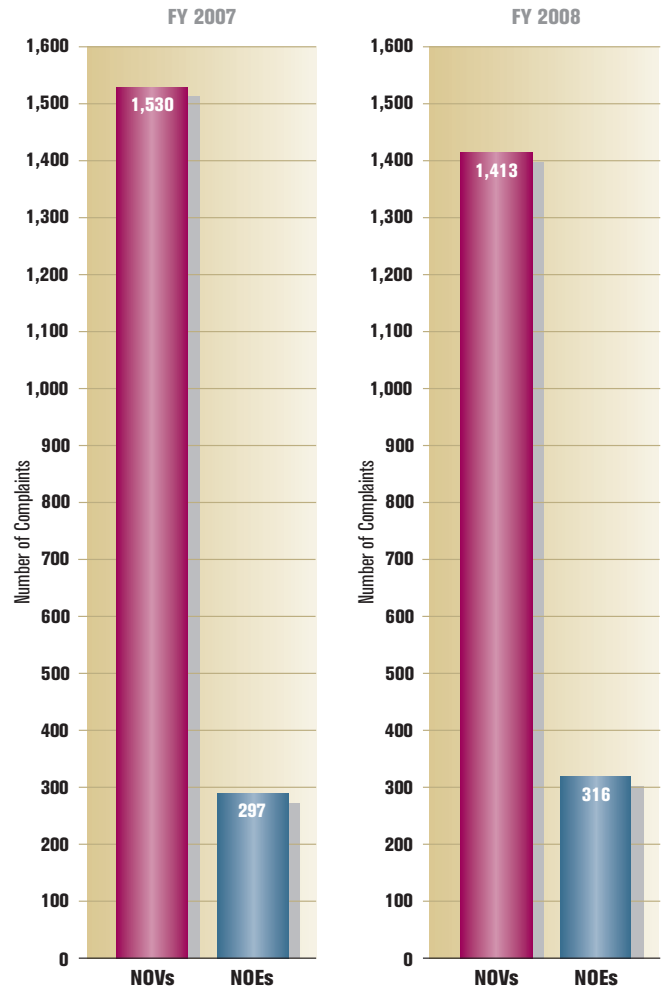
*Note:* This is the only table that includes complaints received at the Austin headquarters; therefore, totals are higher. For an explanation of priority levels, see page 46.

## Complaints that Trigger Enforcement Action

All complaints received are investigated according to priority levels, as described above. Subsequent action depends on the 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 or a Notice of Enforcement.

Issuance of a Notice of Violation (NOV) indicates that TCEQ rules have been violated, but that the viola-

Figure A-8  
Complaints Resulting  
in NOVs & NOEs,  
Statewide



tion 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.

A Notice of Enforcement (NOE) occurs when a substantial violation of TCEQ rules has been documented and some formal action is required. Often, an NOE leads to the assessment of administrative penalties.

In fiscal 2007, the agency issued 1,530 NOVs and 297 NOEs as a result of complaint investigations; in fiscal 2008, the totals were 1,413 NOVs and 316 NOEs (Figure A-8).

Of the total complaints received, the percentage leading to NOVs and NOEs has been steadily rising: FYs 2003-2004, 19.7 percent; FYs 2005-2006, 23.3 percent; and FYs 2007-2008, 25.7 percent.



## 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 sub-categories of programs.

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

Figure A-9

### Complaint Investigations by Program Type

Program Type	FY 2007	FY 2008
Animal Feeding Operations	79	69
Air Quality	2,007	1,974
Edwards Aquifer	36	38
Emergency Response	14	18
Industrial/Hazardous Waste	203	219
Municipal Solid Waste	637	823
On-Site Sewage Facilities	256	165
Petroleum Storage Tanks	158	203
Public Water Supply	401	412
Water Quality	1,001	849
Water Rights	51	49
No Program Assigned	198	184
<b>Total</b>	<b>5,041</b>	<b>5,003</b>

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), but 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 2007, there were 5,041 complaint investigations conducted in response to the 6,973 complaints received. Another 1,127 complaints were prioritized for referral or no agency response (as indicated in

Figure A-7). The remaining 805 complaints were investigated in conjunction with other complaints, which explains why there were fewer complaint investigations than complaints received.

In fiscal 2008, there were 5,003 investigations conducted in response to 6,838 complaints received. Another 1,071 complaints were prioritized for referral or no response. The remaining 764 complaints were investigated in conjunction with other complaints.

In fiscal 2007, air complaint investigations represented 40 percent of the total complaint investigations; water complaint investigations, 36 percent; and waste investigations, 20 percent. In fiscal 2008, air investigations were 39 percent of the total; water investigations, 32 percent; and waste investigations, 25 percent.

Typically, a small portion of complaint investigations (about 4 percent) are not assigned to a specific program area.

## Conclusions

The complaint data for the fiscal years of 2007 and 2008 are generally typical of complaints received and investigated in previous years, with minor variations within some analysis categories.

The most significant change was an apparent trend of increased complaints in the water and waste programs. The increase seems to reflect greater interest among communities in water and waste issues. This is likely due to a combination of factors—drought, for one, as well as the continued growth in population and economic development in suburban areas where air quality may not be as significant a concern. Also, there may well be a general increase in environmental awareness across the state.

As in the 2006 report, this reporting period shows that about 80 percent of the complaints received were classified as requiring investigation within 30 days of receipt.

Consistent with the TCEQ's goal of achieving voluntary compliance with its rules, about 75 percent of the complaints were resolved with no Commission enforcement action. This was a slight reduction from the previous reporting period, in which 80 percent of the complaints were resolved with no enforcement action. This is not viewed as a trend, but simply as a random variation.

Finally, the analysis of complaint investigations by program type reflects the fact that the TCEQ places a high priority on investigating all citizen complaints. All complaints received are addressed either by investigation (individually or as joint investigations of multiple complaints), or by referral to the appropriate entity with jurisdiction over the complaint's subject matter.



