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A Biennial Report to the 73rd Legislature 1990-1992



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"We are all Texans working for clean air!"

The 1990-92 biennium was one of the most challenging periods in the history of the Texas Air Control Board (TACB). The activities of the staff and the decisions of the board will impact the state's air quality well beyond the biennium - in some cases into the next century.

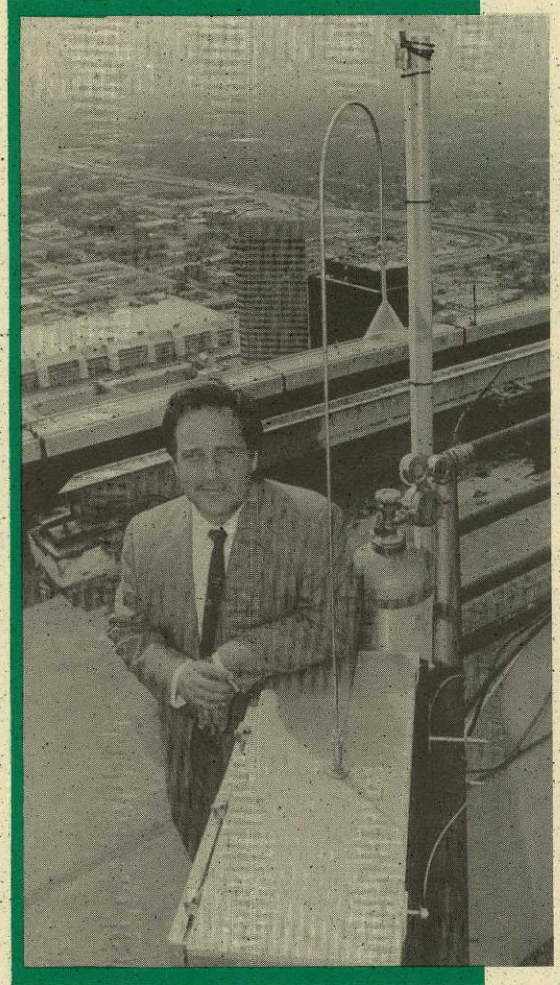
Throughout the biennium, we successfully faced a number of goals. I often said that we were constantly trying to juggle at least three balls. We stayed extremely busy carrying out the traditional demands as the state's air quality agency. At the same time, we addressed the demanding responsibilities created by the Federal Clean Air Act (FCAA) Amendments of 1990 and we worked extremely hard on the consolidation of the TACB into the Texas Natural Resource Conservation Commission (TNRCC).

The resources the Legislature provided us, the leadership and involvement of the board, and the energy and creativity of the staff gave us unparalleled opportunity to take a giant step forward in preserving and protecting our air quality. I'm pleased to say that we made the most of the opportunity. By doing so we not only created momentum toward cleaner air, we have done so in a way that will also protect the economic health of our state.

We witnessed during this period a heightened awareness by our citizens for greater environmental protection. We worked extremely hard for public input from diverse viewpoints and I believe we succeeded in reaching more citizens than ever before. We created many valuable coalitions and partnerships between the business community/industry and environmentalists. Through public input and building coalitions, we found consensus on many complex and difficult issues and obtained valuable insights to guide policy making in the few instances where consensus was not possible.

In the few months that the TACB remains as a separate agency, I see more opportunities to be realized and challenges to be met in continuing our efforts to improve air quality. There will be significant activity as we strive for improvement in performing our traditional core functions of permitting and enforcement. Further challenges exist in implementing FCAA mandates that will affect not only major industries, but small businesses and private citizens as

well. As we meet those challenges I look forward to continued input from a wide variety of viewpoints, the continued help of the other board members, and the continued support of the Governor and Legislature.



Kirk Watson, Chairman

TACB: An Agency In Transition

by William R. Campbell, Executive Director

The 1990-92 biennium has truly been a time of transition for the Texas Air Control Board (TACB) in two major areas.

First, the TACB has spent the past year and a half working to lay the groundwork for a successful consolidation with the Texas Water Commission on September 1, 1993 as prescribed by Senate Bill 2.

And, secondly, the agency has experienced a transition from operating under a federal law that had not been significantly changed since the 1970's to operating under federal and state laws that were substantially rewritten in 1990 and 1991, respectively.

In the case of the Federal Clean Air Act (FCAA) Amendments of 1990, the scope of these amendments is revealed by the fact that they took seven years to pass and are often referred to as the most heavily lobbied piece of legislation in history. Implementation of the FCAA has also provided for an organizational transition since it has necessitated the first period of significant growth for the agency since the 1970's.

In terms of our programs, the FCAA has caused us to redouble our efforts on some traditional programs while replacing others with new and expanded initiatives. The FCAA also pushes forward a transition for air quality programs from focusing mainly on large industrial pollution sources to also vigorously addressing pollution from motor vehicles and small businesses.

Finally, the FCAA has fostered a transition from simply relying on traditional command and control approaches to reducing emissions to also utilizing market-based initiatives to reduce emissions.

At the same time that we have assumed a national leadership role in implementing the FCAA, we have also acted vigorously to strengthen and improve our longstanding core responsibilities of permitting and enforcement. Just as we look forward to the continued challenges and benefits of further implementing the FCAA, we also look forward to continued progress in improving our permitting and enforcement.

None of the progress we have made in the initial implementation of the FCAA or in strengthening the ongoing permit and enforcement activities would have been possible without the fiscal and legislative support of Governor Richards and the Texas Legislature and the active involvement of the board. I am grateful for that support and for the hard work and dedication of the staff of the TACB in working to protect and improve the air resources of this state.

November 15, 1990:

The Federal Clean Air Act Amendments become law and the Texas Air Control Board eagerly embraced the challenge of implementing the most far reaching environmental law ever enacted

The Federal Clean Air Act (FCAA) Amendments of 1990 were the first significant changes to national air quality laws since 1977. The new laws themselves marked a transition in environmental laws in that they incorporate market-based incentives into the framework for controlling air pollution.

The Texas Air Control Board (TACB) realized that the requirements would be extensive. The bill was more than 700 pages, comprised of 11 Titles, several with major impacts on the state. More than 175 federal regulations were expected to come from the U.S. Environmental Protection Agency

(EPA). In turn, many of these regulations would place requirements on the state and Texas decided to take the lead in meeting the deadlines. In some instances, the TACB had to develop state programs without the necessary guidance from the federal government. In taking a leadership role, Texas influenced national rule development which benefits the state in the longterm.

The TACB initiated steps to satisfy the first round of sanctionable deadlines required by the EPA under the Title I nonattainment provisions. Within forty-five days after the act was

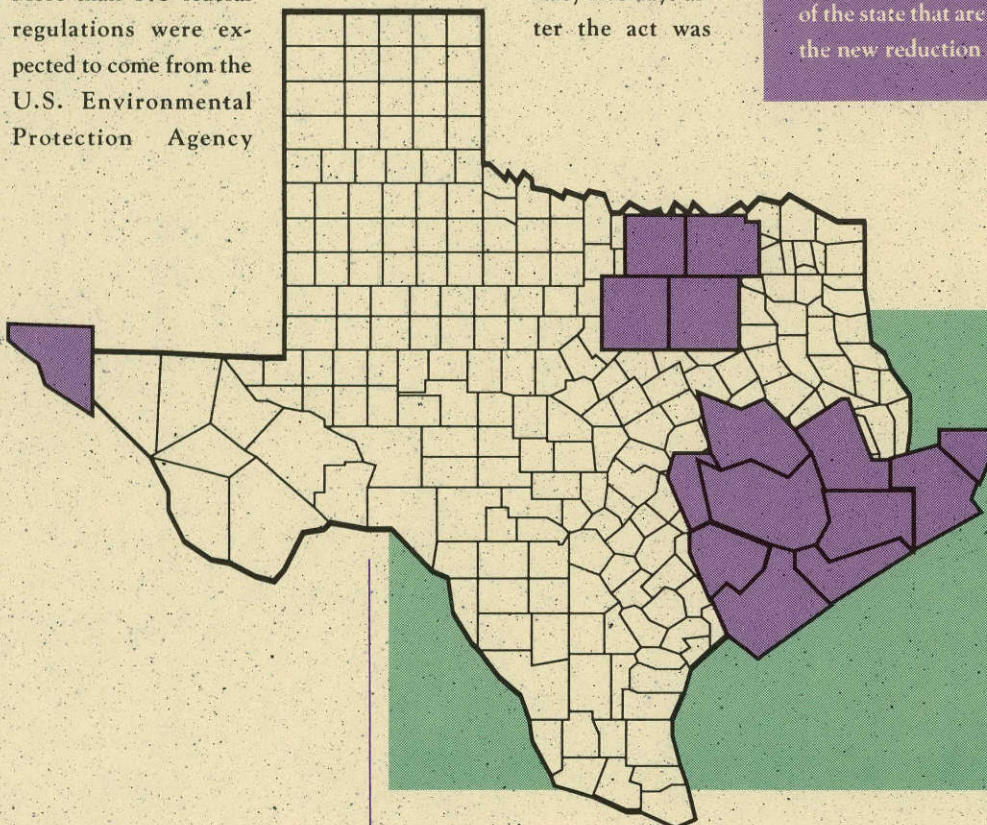
implemented, Texas submitted, through the Governors office, new proposals for redesignating selected areas deemed borderline for ozone nonattainment.

All TACB regulations controlling industrial emissions of

volatile organic compounds or VOCs, a major component in the formation of ground level ozone or smog, were brought into compliance to satisfy a general requirement for reasonably available control technology.



New emission reduction measures affect gasoline terminals, refineries, chemical plants, dry cleaners, degreasing operations, printing operations, painting and coating operations - all major industries in the state. The TACB revisions were part of a nationwide program termed "leveling the playing field" which is aimed at national regulation consistency. Leveling of the playing field extends applicability of the regulation to all areas of the state that are nonattainment for ozone. Compliance with the new reduction rules will be required by January 1994.



The Federal Clean Air Act will affect all areas of the state. However, the Act will have the greatest impact on the four areas of the state that do not meet federal air quality standards for ozone. These areas are comprised of the following counties: El Paso, Dallas, Tarrant, Denton, Collin, Harris, Waller, Montgomery, Fort Bend, Brazoria, Galveston, Chambers, Liberty, Jefferson, Orange and Hardin.

The TACB successfully completed an emissions inventory covering all counties in Texas for compliance with the national ambient air quality standards. As a result, the Federal Clean Air Act attainment/nonattainment status of all 254 Texas counties has been defined.

Houston/Galveston - **SEVERE**
 Beaumont/Port Arthur - **SERIOUS**
 El Paso - **SERIOUS**
 Dallas/Fort Worth - **MODERATE**

Throughout 1992, the TACB staff drafted and submitted numerous proposals on rules on many ozone nonattainment issues. The agency sought and received overwhelming public comment and participation in its hearings and public meetings process. For example, the agency re-

ceived significant public participation on proposals to require gasoline stations in ozone nonattainment areas to install Stage II vapor recovery equipment on pumps to capture fugitive VOC emissions. This type of program, although usually thought of as a traditional pollution control, actually serves to prevent pollution and can save thousands of gallons of

gasoline each year. Public participation in the hearings process helped the agency develop provisions in the regulation proposal that provided exemptions for smaller stations and made provisions for the installation of the Stage II equipment to coincide with other required storage tank equipment changes.

Unique El Paso Challenge

El Paso is the only area in Texas that does not meet federal

standards for inhalable particulate matter (PM-10). The TACB completed revisions to the State Implementation Plan (SIP) for El Paso and its control of PM-10. By comparison, 14 states failed to meet the statutory time line for bringing their PM-10 control regulations into compliance.

El Paso faces similar problems with carbon monoxide. One proposed measure adopted to alleviate the El Paso carbon monoxide problem includes a requirement that motorists purchase special oxygenated fuels during the peak carbon monoxide season (October through March).



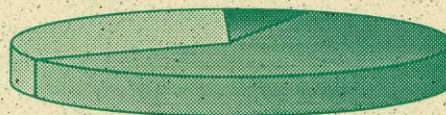
Completing the PM-10 SIP for El Paso required in-depth analysis of air quality in El Paso including emissions inventories, complicated computer dispersion modeling, meteorological trajectory analysis and complete review of strategies for controlling emissions, such as use of solid fuel heating units and requirements for paving roads. The goal is to have El Paso in attainment by 1994.

Area Sources 26%
 Point Sources 8%
 Mobile Sources 66%



DALLAS-FORT WORTH

Area Sources 32%
 Point Sources 8%
 Mobile Sources 60%



EL PASO

Area Sources 15%
 Point Sources 54%
 Mobile Sources 31%



HOUSTON-GALVESTON

Area Sources 7%
 Point Sources 72%
 Mobile Sources 21%



BEAUMONT-PORT ARTHUR

Plans for controlling pollution in the four nonattainment areas have to address the sources of volatile organic compounds which are the major precursor to ground level ozone or smog.

Transition:

Driving down the pollution caused by millions of cars and trucks

With a greater awareness of the role of motor vehicles in the smog problem, the Clean Air Act placed requirements on states for implementing several innovative programs. Each of the ozone nonattainment areas in the state will be subject to an upgraded and expanded inspection and maintenance program.



The TACB actively worked with the EPA in negotiating for a Texas I/M implementation plan that allows for maximum flexibility. The agency was required to submit by November 15, 1992, commitments to implement inspection and maintenance programs for each of the state's four ozone nonattainment areas. By 1995, the state will be required to have all such programs implemented.

The board and the staff spent thousands of hours in meetings, hearings, workshops, etc., in an attempt to develop the program for Texas. The staff developed a program based on an understanding of anticipated federal rules and consideration of important issues, such as cost-effectiveness,

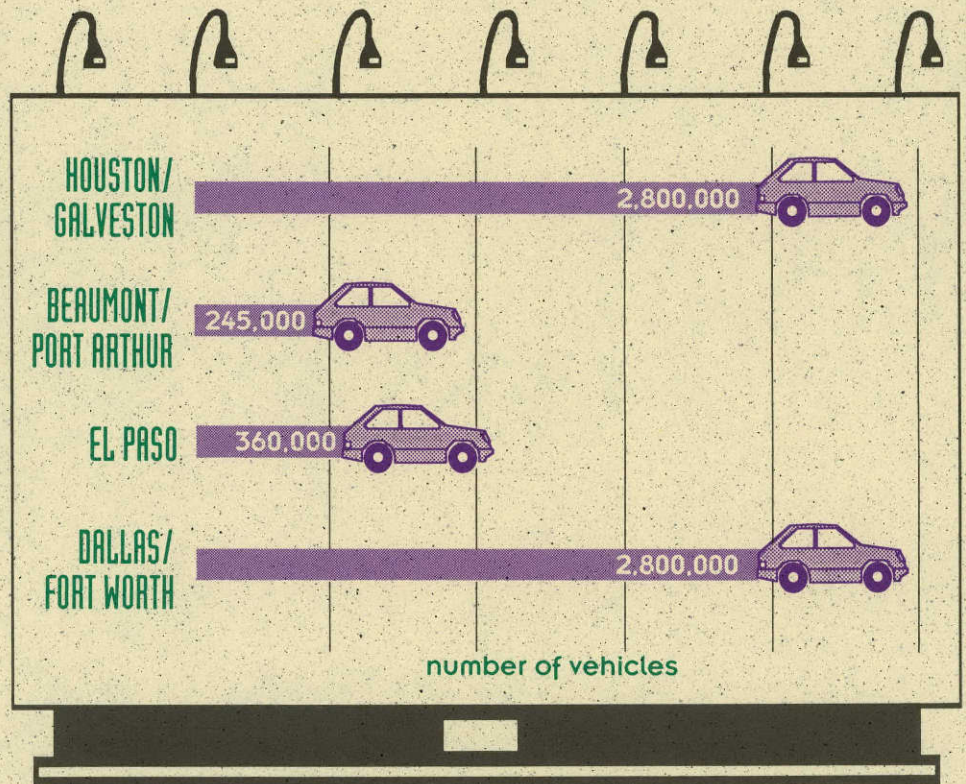
convenience, air quality benefit and economic impact on small business, and the economic development of nonattainment areas.

Transportation Strategies Implemented

■ Improved transportation planning in the Houston/Galveston region as well as an employer trip reduction program to reduce commuter trips by 25 percent at specified work places.

[Houston-area businesses and public institutions with 100 or more employees at a single work site will be required to develop effective programs that encourage alternatives to driving alone to work. The Board received significant public participation in developing the state plan for this program. The input from the public led to the plan including the encouragement of innovative techniques and the consideration of good-faith efforts at compliance.]

■ The promotion of cleaner burning reformulated fuels as a means to reduce emissions of ozone forming compounds. [The board actively recruited participants for this program. During the summer of 1992, Governor Ann Richards forwarded a signed resolution to EPA requesting that reformulated gasoline be available for the Dallas/Fort Worth region. It is the goal that other nonattainment areas, as well as a few attainment areas, within the state develop plans for reformulated fuel.]



Nearly six million cars and trucks registered in the nonattainment areas will be required to undergo emissions inspections. Major emphasis will be placed on ensuring that vehicles are properly repaired when necessary.

Clean Air Act redefines that new emissions be offset by equal or greater reductions in some areas

■ The investigation of clean fueled vehicles technology. [During the biennium, the state continued to address the "Texas Plan for Clean Air," requiring vehicle fleets of state agencies, school districts, and metro transit authorities to be converted in stages to run on natural gas and other approved alternative fuels.]

The FCAA requires that major sources in nonattainment areas "offset" any new proposed emissions of volatile organic compounds and nitrogen oxides by greater than equivalent reductions in emissions at their plant or elsewhere in the nonattainment area. In Houston, 130 tons of offsets must be produced in order to qualify for a 100 ton permit.

A major source in Houston emits more than 25 tons per year, which includes many small businesses, not just major refineries or chemical plants.

An "offset" is a voluntary, permanent reduction in emissions below the level otherwise required by law. Since the law requires approximately 50% reductions in VOC emissions in Houston by the year 2007, additional reductions will be challenging for industries to find.

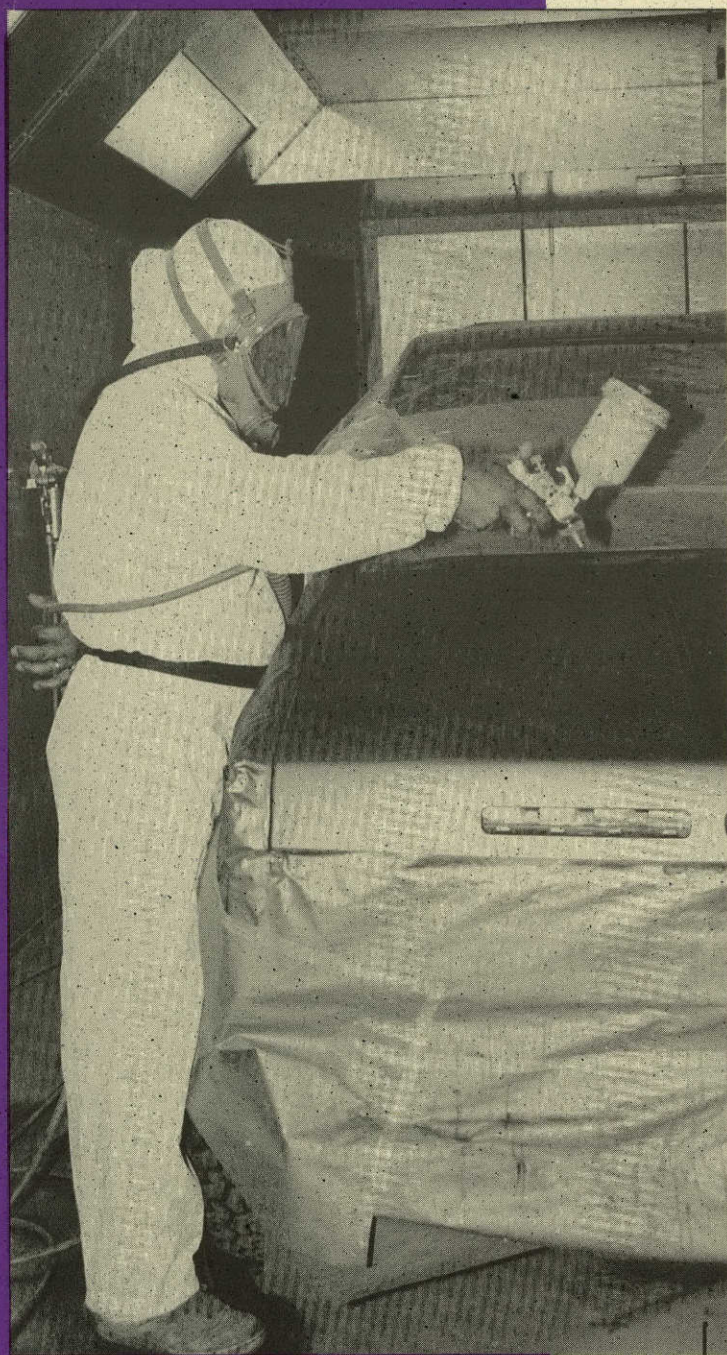
Recognizing the environmental benefits and potential economic impacts of offset requirements, the staff is exploring innovative ways of helping make offsets available to industry in an environmentally sound manner.



.....
Under federal and state law, the agency expanded its efforts to reduce pollution from motor vehicles.

Federal Clean Air Act Deadlines:

Texas meets all!



Texas was one of the few states that continually met all the critical deadlines of the Federal Clean Air Act. The more than 25 significant milestones met were the culmination of a major staff work effort.

Significant accomplishments throughout the biennium:

May 1991

- ▼ Upgraded existing smog regulations to meet national guidelines

October 1991

- ▼ Completed plan to reduce particulate levels in El Paso
- ▼ Adopted rules establishing the federally required emissions fee

May 1992

- ▼ Adopted rules extending federal permitting requirement to smaller ozone polluting sources
- ▼ Adopted rules making more new sources subject to federal emission offset requirements and instituted tougher requirements
- ▼ Expanded emission control requirements into counties surrounding ozone nonattainment areas

- ▼ Adopted rules to ensure that all ozone nonattainment areas are subject to the same requirements

August 1992

- ▼ Adopted rules requiring companies to certify the accuracy of prior year emission estimates

...Continuing the tradition of meeting deadlines in this biennium!

September 1992

- ▼ Adopted rules requiring continuous emission monitors at certain industrial facilities
- ▼ Adopted rules requiring improved recordkeeping at major sulfur dioxide sources
- ▼ Adopted rules requiring higher oxygen content in El Paso area gasoline during the winter
- ▼ Completed a plan to reduce carbon monoxide levels in El Paso

October 1992

- ▼ Adopted rules requiring vapor recovery at gasoline service

From small auto paint and body shops to the large petrochemical companies along the Texas Gulf Coast, the 1990 Federal Clean Air Act Amendments placed new air quality requirements on thousands of businesses.

next page: Most of the petrochemical industry in the United States is located along the Texas Gulf Coast.

Texas is clearly a leader in clean air. We appreciate the work being done by the Texas Air Control Board and I commend the staff and board on meeting all of the deadlines associated with the Federal Clean Air Act.

Stan Meiburg, EPA Region 6

stations in ozone nonattainment areas

- ▼ Extended ozone nonattainment rules to major sources not previously covered by federal guidelines
- ▼ Committed to implement federal guidelines for reducing vehicle miles traveled in the Houston area
- ▼ Adopted rules requiring large employers in Houston to reduce employee work trips

November 1992

- ▼ Committed to develop nitrogen oxide emission controls for the Houston and Beaumont ozone nonattainment areas

- ▼ Developed plans to upgrade existing motor vehicle emission testing and repair programs in Houston, Dallas/Fort Worth, and El Paso
- ▼ Developed a plan to establish a new motor vehicle testing and repair program in Beaumont/Port Arthur
- ▼ Committed to develop a clean fuels fleet program
- ▼ Adopted a small business assistance program
- ▼ Completed an inventory of all emission sources in ozone nonattainment areas

If Texas had failed to meet any of the FCAA deadlines, the state could have faced some severe U.S. Environmental Protection Agency sanctions. Possible sanctions were:

- ◆ Severe business and industry growth limits in nonattainment areas
- ◆ Withholding as much as \$800 million in state highway funds
- ◆ Withholding of state air program grants
- ◆ EPA implementing air programs in Texas



The agency meets challenge of improving the permits process to the benefit of the environment and the economy

The agency was constantly challenged to improve the permitting process. Numerous brainstorming sessions, planning meetings and workshops were held by the TACB both internally and with representatives from industry, local governments, the environmental community and other interested parties to address permit concerns.

The agency met the challenge. A permit oversight committee was established by the board, several task forces were formed and new policies were proposed and adopted. Some of the newly implemented steps by the agency to improve on permits included:

- ▼ The salaries of entry-level permit engineers and engineers that have one to four years of experience.

- ▼ The Governor's Office approved an emergency appropriation to increase the agency's permit staff by 60%.

- ▼ Engineers handling permits for new or expanding businesses had work loads reduced as permit renewals were assigned to a newly created section in the permits program.

- ▼ A permit team published several industry/process specific permit application guides and continued to work on others.

- ▼ Creation of board committee to oversee and improve permit processing.

- ▼ New guidelines were drafted to expedite health effects review for emission reduction projects.

- ▼ Use of Total Quality Management principle in permit workshops with the regulated community, agency staff, environmental groups and citizens.

The board also streamlined the agency's contested permit case hearing process to resolve cases

in a timely manner. The board adopted a policy guidance statement directing the executive director to make full use of the authority to deny unreasonable hearing requests considering such factors as the opponent's distance from the facility and whether the opponent is using the hearing process to gain concession unrelated to air quality. New policies direct the hearings examiners to:

- ▼ minimize the burden of proving uncontested issues

through the use of prehearing conferences and use of a discovery process,

- ▼ be more restrictive regarding granting of continuances,

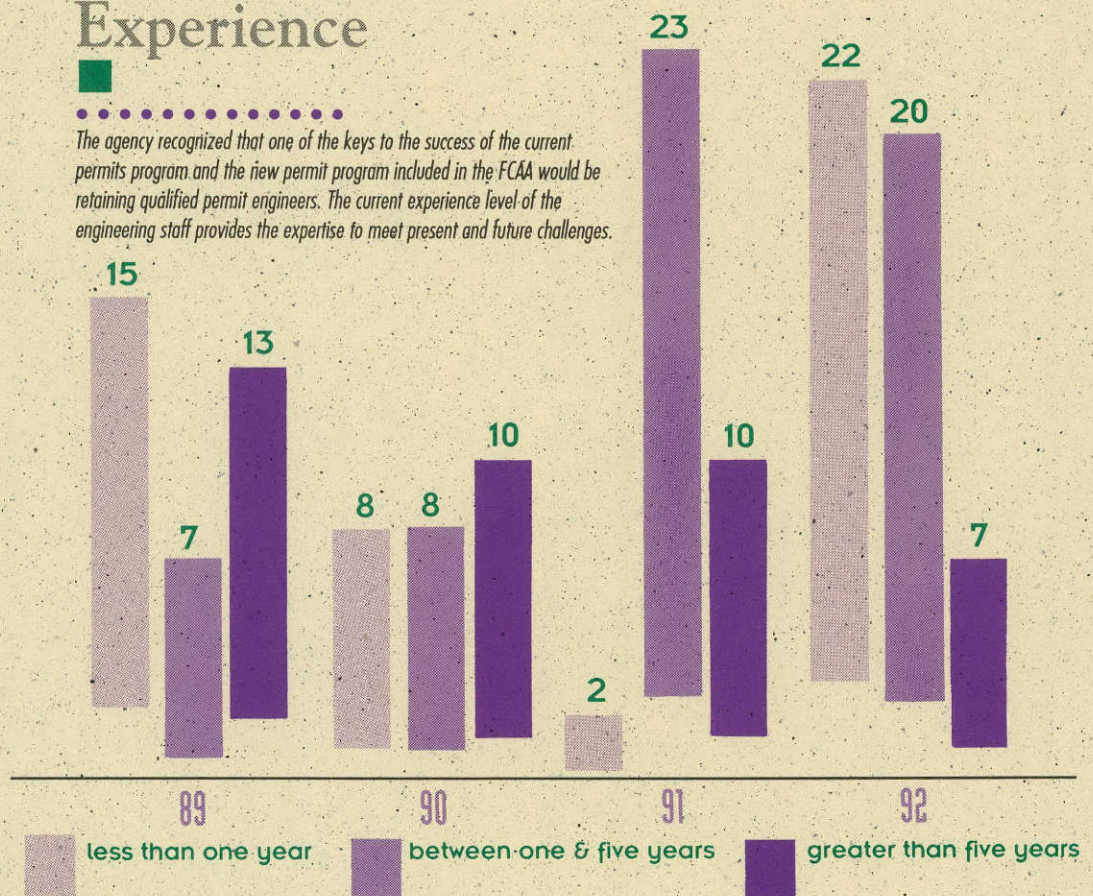
- ▼ align parties and designate liaison counsel where appropriate,

- ▼ encourage the use of written direct testimony,

- ▼ impose sanctions on parties using dilatory tactics and establish and force time limits for direct and cross examinations.

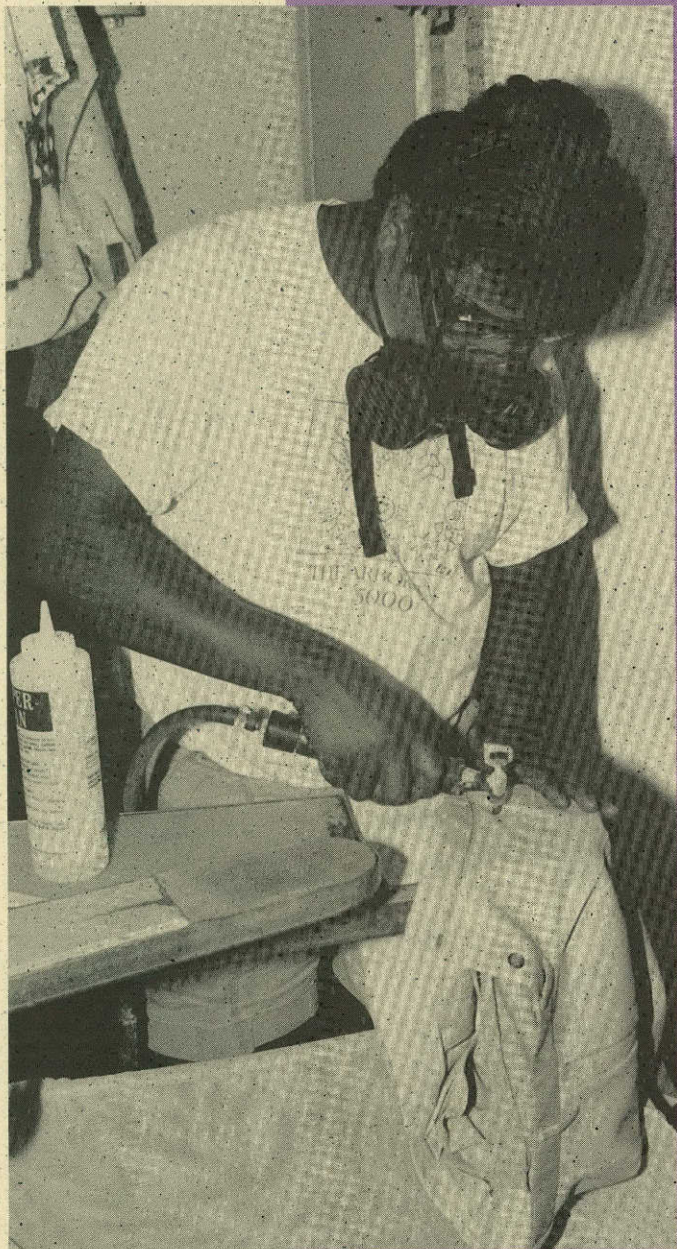
Engineer Experience

The agency recognized that one of the keys to the success of the current permits program and the new permit program included in the FCAA would be retaining qualified permit engineers. The current experience level of the engineering staff provides the expertise to meet present and future challenges.



Goals of Small Business Assistance

- Help determine if air quality permits are needed
- Help small businesses understand rules that may apply to them
- Help find sources of financing for pollution control equipment
- Provide assistance through an Ombudsman' Office by calling 1-800-824-7247



Dry cleaners are one of the more than 200 types of small businesses that are required to comply with provisions of the FCAA. Solvents used in dry cleaning and other small business processes contribute to air pollution problems for Texans.

Small Business Assistance

Under the FCAA requirements, states are required to aid small businesses understanding and complying with the requirements. On February 1, 1992, Texas became one of the first states to create a Small Business Technical Assistance Program. Thousands of businesses are now required to meet current federal and state air quality standards. These include businesses such as dry cleaners, paint and body shops, print shops, furniture manufacturers and refinishers and service stations.

The program allows the agency to provide technical assistance to the small businesses which contribute more than 50 percent of all toxic emissions released in the state.

The program is divided into three separate and distinct parts...the Small Business Technical Assistance Program, the Small Business Compliance Advisory Panel, and a Small Business Ombudsman. All three have the common goal of

making the process of reaching compliance less complicated and more efficient for the small businesses.

Throughout the year, the program conducted workshops and participated in business association programs to bring the message of the small business requirements to those affected. They began mass mailouts through various business associations to offer the assistance to the owners of the facilities, many who have never heard of clean air requirements.

The program also established a toll free telephone line so that small businesses could direct inquiries. The toll free line is operated through the office of the ombudsman, who works independently in the role of advocate for small business owners, hearing their problems, directing them to appropriate information sources, and cutting the red tape of governmental processes where possible.

The Governor and the 72nd Texas Legislature provided the mechanism to implement many clean air mandates

The FCAA mandate clearly established that the states are responsible for primary implementation of the new policy. Any state failing to comply with the federal regulations left itself open to a series of economic and regulatory sanctions. In Texas, this could mean \$800 million in federal highway funds and severe industrial source growth limitations.

Recognizing the need for a timely response to clean air policy directives, the 72nd Texas Legislature approved new bills that broadened the TACB's authority under the Texas Clean Air Act (TCAA). Also, increased appropriations were provided to the agency to carry out FCAA and other state initiated clean air initiatives.

TCAA Additions:

- ▼ Expansion of authority to regulate motor vehicle pollution under the inspection and maintenance program and collection of a \$2. mobile source fee.
- ▼ Authority to control air toxics from solid and hazardous waste management facilities.
- ▼ Authority to issue federal operating permits and collect fees.

▼ Authority to consider a company's compliance history in permit issuance determinations.

▼ Authority to initiate criminal penalties for certain violations of the state and federal acts.

Legislation also provided that the TACB may control air contaminants as necessary to protect against adverse effects related to acid rain. The primary cause of acid rain stems from sulfur dioxide emissions resulting from coal-fired electric utility plants. Texas,

which is listed under the FCAA as a state with low sulfur dioxide emissions, is a participant in the EPA's clean state sulfur emissions allowance program. The bonus allowances are important to Texas utilities in providing future electric generating capacity for the state. The agency worked closely with the Governor's Office to guarantee that the state realized the most benefit in the calculation of sulfur dioxide bonuses.

The Legislature charged the TACB to conduct a study on the effectiveness of the state of California's "low emission ve-

hicle" (LEV) standards and whether they should be applied in Texas. During the summer of 1992, the TACB completed a review of bids for consultant services to conduct the California program review. An oversight panel consisting of representatives from consumer groups, environmentalists and the automobile and fuels industries was appointed to give guidance to the TACB staff with regard to the study. The agency will report to the 73rd Legislature on the results of the study.

With the enactment of the legislation, the TACB's permit-

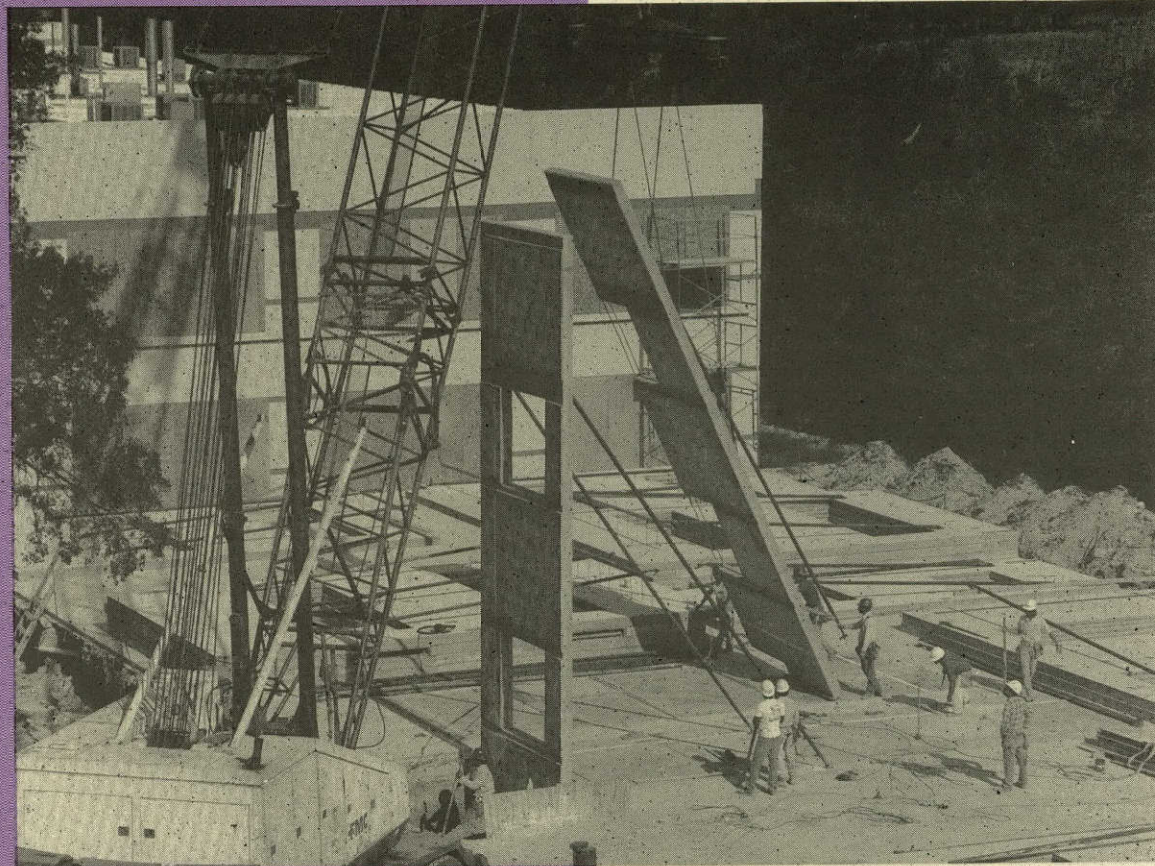


The most important enforcement change made by the 72nd Legislature was the expansion of the list of criminal violations the TACB is authorized to execute. By Executive Order, Governor Richards created the Texas Environmental Task Force to increase federal and state cooperation in prosecuting criminal violations of environmental laws. The TACB serves as a member of the task force and regularly participates in its activities. A board resolution adopted in June 1992 established the procedure the TACB would use when requesting a prosecuting attorney to institute a criminal enforcement action.

ting authority and funding base for supporting programs were changed significantly. Included in the bill were a number of provisions authorizing the agency to administer the federally-mandated FCAA Title V permits initiatives.

The agency is authorized to consolidate multiple facility permits into a single permit; require sources to obtain a federal operating permit, which is subject to review every five years; establish emission control technology standards and administer and enforce the federal operating permits program.

The Legislature granted the agency authority to collect sufficient fees, including a maximum \$25 per ton emissions fee, to be deposited into the Clean Air Act Fund for purposes of financing the federal permitting program. The agency elected to use a phased-in fee assessment to support FCAA activities and program development during the first two fiscal years. The method of fee payment is based upon a dollar per ton amount of all regulated pollutant which are emitted during a facility's normal operation. Because the Legislature was diligent in providing the basis for Texas to begin developing this federal program, Texas could become one of the first states to



receive delegation of this important program.

With the support of a \$200,000 appropriation in 1991, the agency initiated the first phase of a long-term statewide Air Toxics Monitoring Network. This event marked the first fully operational air toxics monitoring network in the state's history.

The staff conducted a series of public meetings to seek citizen input on the selection sites for the air toxics monitors. The meetings were held during the summer of 1992 in LaMarque, Beaumont, El Paso, Arlington, Austin and Corpus Christi. At the meetings, agency staff obtained a number of relevant, useful comments from citizens concerned about air

pollution in their respective areas.

The first monitor was set to be deployed in Texas City. The Houston area was targeted for the majority of monitoring due to its status as an industrial center and the types of air toxics such as volatile organic compounds present in the area. Other priority sites receiving attention included Corpus Christi, Port Arthur, Beaumont, Port Neches, West Dallas, Midlothian, Odessa, El Paso and Clute.

New federal and state clean air mandates required appropriations to increase the number of TACB staff. To accommodate the increased staff, additions were made to the central office, including an 18,000 square foot extension to the Technical Operations annex.

Other Accomplishments:

The Texas Air Control Board addressed new and unique air quality issues... The 1991-92 biennium saw many events of importance

Board and Staff Provides Support for Successful Consolidation

In preparation for the consolidation of the TACB and Texas Water Commission into the Texas Natural Resource Conservation Commission, the staff and board provided support to the Transition Committee. This 18-member committee was created by Governor Ann Richards to develop an efficient and nondisruptive reorganization plan and implementation schedule for the new agency.

Several meetings and workshops were held, and staff and board members participated in subcommittees that were formed to address several topics. The subcommittees were Budget and Legislation, Permits and Enforcement, and Customer Services and Public Responsiveness. The subcommittees utilized agency expertise and research in each of the areas to provide for a Blueprint for Consolidation.

The efforts put forth by the TACB in this endeavor should enable the agencies to implement consolidation without disruptions in the delivery of environmental protection services to Texans and Texas businesses and without impeding efforts to obtain federal delegation of important environmental laws.

First State Agency to Voluntarily Undergo Comptroller Review

Shortly after his appointment as chairman, Kirk P. Watson requested a performance and management audit by the Texas Performance Review (TPR) team of the Office of Comptroller of Public Accounts. The TACB became the first agency to undergo an audit by the team.

The goal of the audit was to identify ways the agency could do its job better as it approached the obligations of the Clean Air Act and prepared for the consolidation.

The review was completed in March 1992, and the agency worked to address 15 specific areas highlighted in the 53 page report. The recommendations addressed major agency mission areas: agency administration, the permitting process, enforcement activities, air quality monitoring and information systems. The review provided recommendations that served as starting points for further study and examination, which the board continued throughout the year.

In reviewing the agency the TPR conducted extensive interviews with agency personnel, industry representatives, public interest groups and professional and trade associations.

In passing along his appreciation to the Comptroller's Office for the review, Chairman

Watson noted, "Operating efficiently is a necessity. Activities and operations that may have worked in the past, may not work under the special circumstances we face. And, of course, a fresh look is almost always helpful. I thank you for the excellent job that was done on the audit of the TACB."

Local Program Contracts

The Texas Air Control Board entered into contracts, totalling more than \$620,000, with five local air pollution programs to aid the state in continuing efforts to ensure clean air for citizens. Although the agency has had agreements with local programs through the years, this marked the first time formal contracts were developed.

These contracts provided partial funding to the local programs in exchange for seven designated air pollution control services. Under the contracts, each program was responsible for an asbestos enforcement program; an air pollution complaint response program; enforcement of TACB regulations that prohibit tampering with automobile pollution equipment; and a compliance inspection and enforcement program for small source emitters of volatile organic compounds, such as dry cleaners.

The contracts were funded using appropriations from the Legislature. The authority for the

agency to delegate funds to local programs was granted by the 72nd Legislature.

Local programs are important because of the support they provide in those areas of the state where air pollution problems are greatest. Also, there is strong support in each of the cities for the local air pollution programs.

These contracts place stringent requirements on the programs including responsibility for an asbestos enforcement program, an air pollution complaint response program and a compliance inspection and enforcement program for small sources.

The contracts were with the Fort Worth Public Health Department, Dallas Department of Health and Human Services, El Paso City-County Health District, City of Houston, and Galveston County Health District.

TACB Continues to Address Border Issues

Throughout the biennium, the TACB maintained active relations with the agency's counterpart in Mexico. For example, for the first time ever, in September 1991, the staff traveled to Saltillo, Mexico, to conduct the visible emissions evaluators training course (Smoke School). The training sessions were held at the request of the Mexican Government. Nearly 200 people were certified after the course. Partici-

During my term as chairman, we used opportunities in Texas that, although possible, were not likely even five years ago. We created coalitions and partnerships among government, the business community or industry, environmentalists and public organizations.

Hirk P. Watson, Chairman

In order to obtain required air quality permits, such businesses will need to document that they have found or caused reductions of the same pollutants in the area greater than the new pollution they will create.

Providing existing businesses with economic incentives to reduce pollution will help ensure that new or expanding businesses can obtain air quality permits. The board believes this will help preserve the economic vitality of the Houston area.

The Burning of Hazardous Waste in Cement Kilns

From Midlothian to New Braunfels, the board faced the question of the burning of hazardous waste in cement kilns.

Public concern of this issue continues. The chairman of the board felt that there were many unanswered questions, and subsequently appointed a task force to wrestle with some of the other problems.

The Task Force on Waste-Derived Fuels for Cement Kilns was asked to go beyond the issue of simply whether the state should allow the burning of hazardous waste in cement kilns. They were asked to totally review all aspects of proper public policy relating to such burning. The group toured cement plants and attempted to address everything from health issues to the propriety of using

cement kilns as a disposal method. Its recommendations were expected to have not only implications for Texas, but will be reviewed by concerned individuals and the industry itself in other states as well. The results of this ongoing investigation has the potential for setting nationwide standards.

East Austin Situation Provides Challenge for Agency

There was probably no other single issue that involved as many staff and staff hours than the situation of the East Austin tank farm.

Shortly after hearing news reports about serious citizen concerns about the operations of six fuel storage tanks located in the

middle of neighborhoods, the staff aggressively tackled the problem.

Staff began a monitoring program in the neighborhoods, conducted an intensive modeling project to predict cumulative effects using a worst-case scenario, and made recommendations to the board.

The staff also worked with a 25-member citizen task force, local legislative representatives, other state agencies, and city and county officials on this issue.

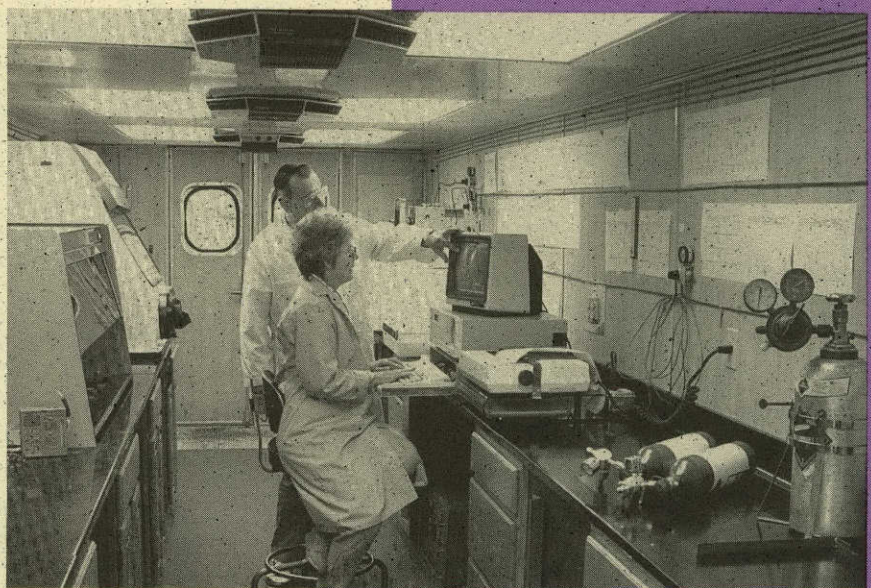
The staff held many meetings with the oil companies and were able to draft voluntary administrative orders that would lead to significant emissions reductions. The voluntary emissions reductions, which are going to amount to a 66 percent de-

crease, will go far to address concerns of the citizens. In addition, the agency has gained valuable experience in addressing cluster facilities and cumulative effects on neighborhoods.

TACB Smoking Vehicle Program

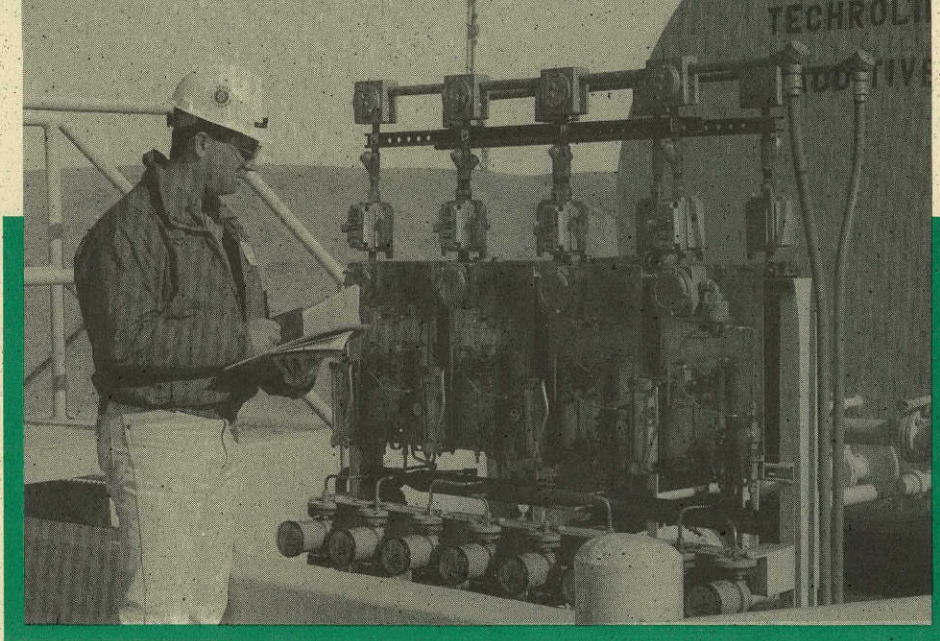
Clean Air Week 1992 christened one of the most successful TACB public awareness and education campaigns. The Smoking Vehicle program provides a way for citizens from all across the state to use free a telephone hotline to alert the agency of vehicles that are smoking excessively.

Typically, a motorist who spots a vehicle belching heavy tail pipe emissions writes down the offending vehicle's license plate



The mobile laboratory traveled across the state, including to Midlothian, where there were health issues raised with regard to cement kiln operations. The laboratory trips provide useful information to the staff and the community.

TACB regional investigators respond to thousands of complaints over the years. Here an investigator checks a fuel distribution operation.



number, the date, and the location of the incident. The reporting motorists places a call to the TACB hotline at 1-800-453-SMOG.

To follow up, staff from the Air Quality Planning Program mail out notification letters to owners of vehicles that were alleged to have excess emissions. The letters are designed to inform motorists about tips on proper vehicle maintenance to reduce emissions, and that they are contributing to air pollution. The letter is not used as an enforcement tool by the agency.

The program has had an overwhelming response from citizens from all across the state. Less than one percent of writers and callers have criticized the program, while the rest have been positive. The program received strong support from the American Lung Association of Texas. Approximately 25 percent of persons receiving letters notified the agency that they had taken steps to repair the vehicle.

New Laws and Policy Address Enforcement Issues

The TACB offers citizens an opportunity to comment on

agreed board orders that are adopted. The new procedure for the agency was required through legislation passed during the 72nd Legislative Session.

Under the law, the agency publishes notices of the proposed board orders in the Texas Register for a 30-day public comment period. A copy of each board order is made available for public inspection at the TACB central office and at regional offices. Legal staff members answer questions on the orders.

The staff also send press releases concerning board orders to media in areas that are near an

entity in which a board order is to be entered.

During the second year of the biennium, the staff addressed the growing concern of how the agency assessed penalties. A 22-member Penalty and Policy Task Force addressed many enforcement issues which were adopted to aid the staff in assessing penalties. The group shaped new policy on the size of minimum penalties for certain infractions, and whether penalties should be assessed based on the size of the company or operation in violation.

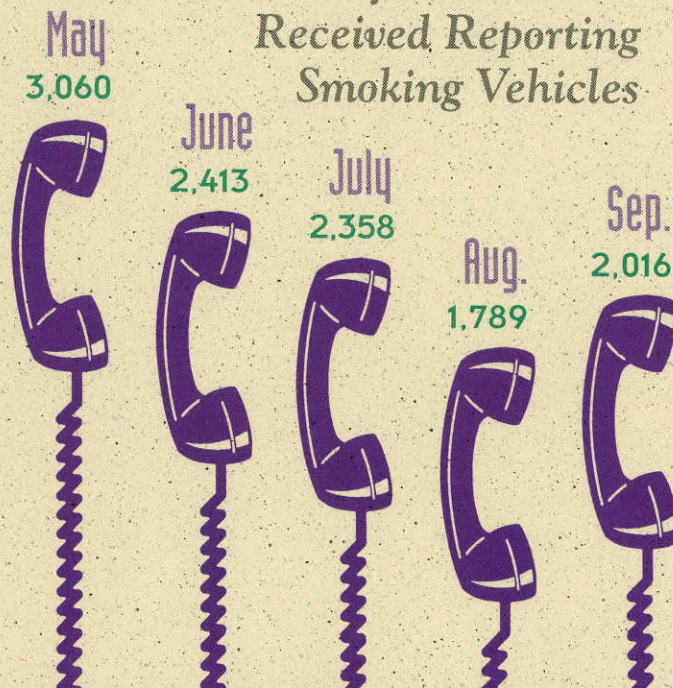
Compliance History Task Force Assists with New Rules

The Task Force on Compliance History provided the agency with a blueprint for developing policy and rules following the mandates contained in legislation on compliance history in the permitting process. The legislation gave the agency the authority to consider past compliance with environmental law in determining the issuance of permits.

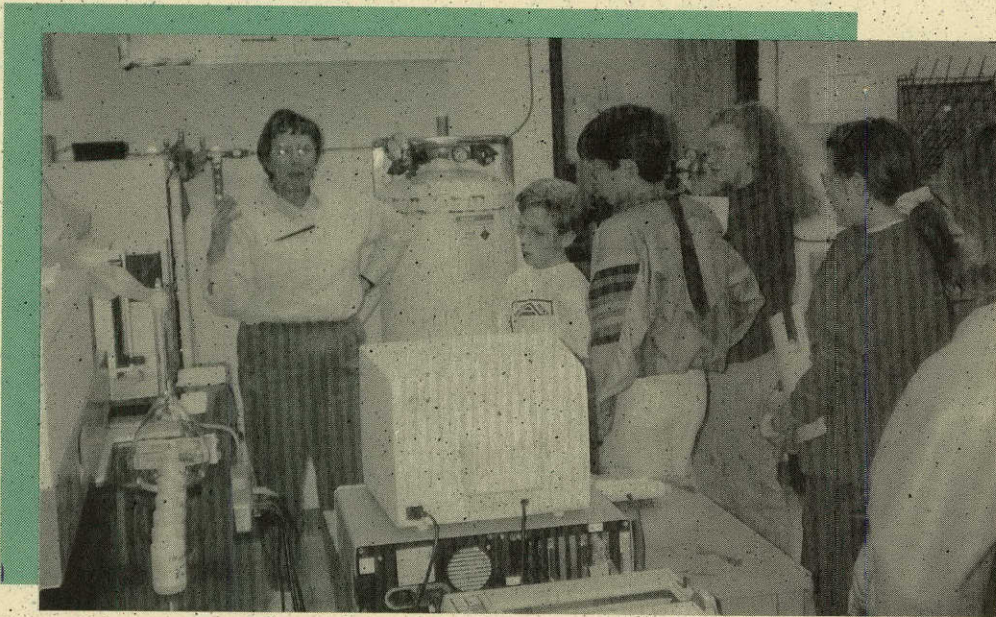
Soon after the task force was appointed, they addressed the actual collecting of compliance histories. Rules were adopted based upon the recommendations of the task force. The task force helped with the creation of changes to TACB regulations which set up a proposed framework by which staff could compile an applicant's compliance history.

The task force then turned its attention to how the staff would use compliance histories. Called Phase II of their work, the process now provides guidance to staff in recommending denial of a permit if staff can show a "recurring pattern of egregious conduct" indicating a disregard for TACB's regulatory authority. Staff mem-

Number of Phone Calls Received Reporting Smoking Vehicles



During a five month period, the TACB Smoking Vehicle Hotline received more than 11,000 reporting calls.



Hundreds of school children learned more about the agency through tours of the Technical Operations laboratory.

bers also must notify the applicant of the decision, allowing sufficient time for response if a contested case hearing has not already been requested.

Another component of the new guidance policy allows staff to recommend special conditions for the permit, instead of outright denial, if compliance history suggests a pattern of disregard for regulations. The board also adopted new policy guidance with clear direction on how and when the staff would use the compliance history to make a permit recommendation.

Agency Works to Streamline State Asbestos Demolition/Renovation Program

The TACB worked with the Texas Department of Health (TDH), other state agency officials, local programs and the EPA in exploring consolidation of the TACB's asbestos demolition/renovation enforcement program.

Staff believed that at least 1,500 asbestos demolition/reno-

vation projects inspected annually by the TACB were possibly going through similar TDH inspection programs as well.

After many meetings and workshops, all parties agreed with consolidation of the activity into the TDH's program to improve efficiency.

In August 1992, the board approved a contract with the TDH for conducting asbestos investigations. The contract was designed to phase in TDH's authority over the asbestos program, while the agency secured statutory authority to enforce the National Emissions Standards for Hazardous Air Pollutants regarding asbestos.

TACB Participates in Environmental Outreach Activities

TACB employees were active in many environmental outreach activities during the biennium. Many of the activities required participation during non-work hours.

More than 100 employees joined other citizens along the

Texas coast for four Beach Clean-Ups sponsored by the General Land Office. Staff traveled at their own expense to demonstrate their concern for the environment in Texas.

The agency adopted a Recycling and Resource Conservation Plan, as required by state law. A volunteer committee was established and the group was one of the first in state government to carry out a waste audit to ascertain the success of the agency recycling program.

Through the work of the staff, the TACB became the first state agency to join the EPA's "Green Lights" lighting efficiency program. One of the first tasks undertaken as a part of this program was conducting an energy audit of the agency's central office.

Educational efforts received attention throughout the biennium. The agency was represented in the Texas Environmental Advisory Committee, as mandated in Senate Bill 1340. Staff could also be seen participating in various tree planting activities such as the City of Austin's "Re-Leaf"

project. The agency also initiated the "Texas Tree Challenge" in conjunction with the Texas Young Lawyers Association to encourage fifth-grade students throughout the state to learn how trees fight air pollution and to plant trees in their area.

Thousands of Texans, from school children to senior citizens, learned about air pollution and the role of the TACB in combating pollution, through the efforts of staff at various speaking engagements and other public appearances. The agency increased its participation in public environmental fairs by more than 75 percent and the regional offices expanded their environmental outreach activities. Agency staff also was active in Clean Air Week and Earth Day activities to increase awareness of air pollution issues. They also were involved with holiday fundraising efforts and were active in American Lung Association fundraisers such as the Clean Air Bike Challenge.

The board established a Community Involvement Committee to seek ideas from the public in how to get citizens more involved. The Houston regional office established an Education and Outreach Division.

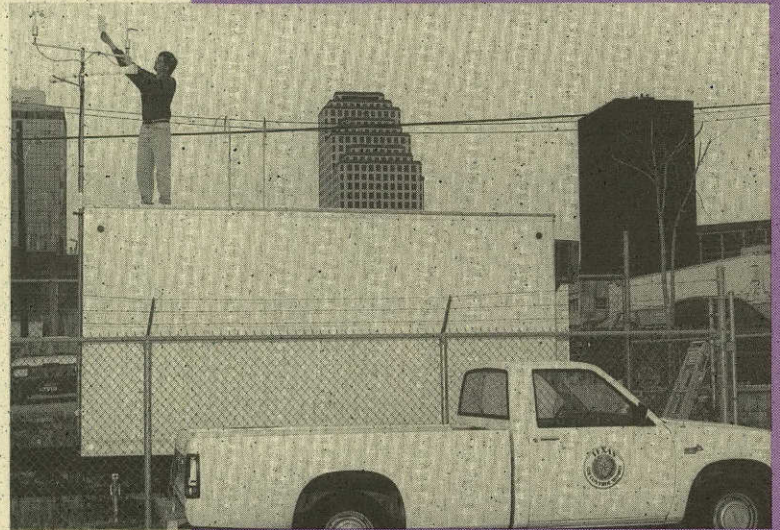
Looking Toward The Future - The Goals Are Many

While there are many laudable accomplishments of the TACB during the past biennium, the agency has set goals to ensure air quality for all citizens

- ▼ Improve awareness of pollution levels in some regions of the state, such as on the border, to increase monitoring capabilities.
- ▼ Better monitor suspected hot spots using permanently deployed equipment or mobile units with sufficient equipment and staff.
- ▼ Continue use of the urban airshed model by providing highly sophisticated air monitoring to improve the data in the model which will determine the pollution control regulations.
- ▼ Better educate officials in areas that are marginally in attainment with the federal ozone standard as to the wisdom of taking proactive steps to reduce emissions to stay in attainment. One way

the agency hopes to do this is conduct emission inventories and modeling to present options for such areas.

- ▼ Improve permit timeliness by developing industry specific application packages and examples. Helping industry to prepare better applications will improve permit timeliness. Poorly prepared or incomplete applications are a major source of delay.
- ▼ Provide for better inspection of the pollution sources in the state. Many pollution sources, because of size and location in an attainment area, may go several years between compliance inspections if there are no complaints.



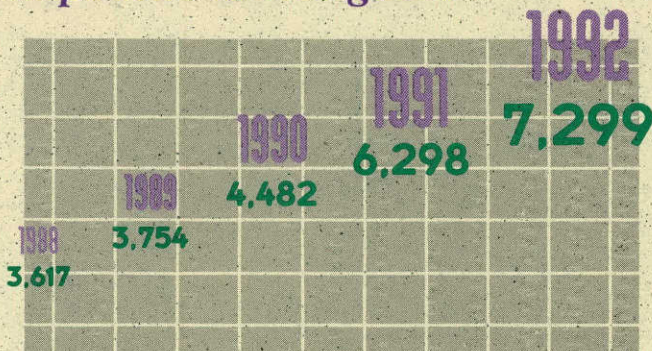
- ▼ Better response to reports received of emissions due to process upsets or malfunctions at industrial facilities. Efforts will be made to better investigate such reports to identify incidents which were avoidable and, therefore, subject to enforcement action, or to at least analyze upset patterns for particular industries to identify facilities with unusually frequent upsets.

Monitoring will continue to receive increased emphasis as a valuable tool for determining health effects of pollution on citizens.

- ▼ Continue to use task forces, comprised of citizens representing neighborhoods, environmental concerns, and health organizations, that help the agency address how the task of developing and carrying out clean air policy could be better.

- ▼ Continue to recruit and maintain a qualified and diverse staff that will provide the best service to all citizens.

Citizen Air Pollution Complaints Investigated



An important goal will be to improve complaint response timeliness. Complaint work loads have increased 76 percent between FY 1986 and FY 1992. Although complaint response is not a federal mandate, it is one that receives statewide attention.

Twenty-Six Years Of Protecting The Air Resources Of Texas

Forty-three men and women have served as members or ex-officio members of the Texas Air Control Board since its creation by the 59th Legislature in 1965. From former Governor Preston Smith to current Governor Ann Richards, Texas governors over the years have appointed citizens with the task of protecting Texans of the state from harmful effects of air pollution. These Texas citizens have volunteered to serve their terms to provide the best in environmental quality for the state.

In September 1993 the board will cease to exist, but the agency has a proud legacy of leading the nation in environmental quality for all Texans. The board provided the direction and guidance to a dedicated staff of professionals. Often the decisions made by the board were not the most popular, however, as one board member stated, the decisions were based upon the mandates and laws provided by the leadership of the



The Texas Air Control Board met for the first time in 1966. Members attending included: Harry Clark, Henry J. LeBlanc, S.B. Walker, G.R. Herzik, Jr., John Files, Dr. Herbert McKee (chairman), Clinton Howard, and Herbert Whitney.

Texas Legislature. They have provided the leadership and guidance to a dedicated staff of professionals.

The decisions made by the board in 1992 were often complex and controversial. However, the board maintained its reputation as one that upheld federal and state air pollution laws.



During each meeting of the past biennium, the board examined many air quality issues that required much deliberation before final decision. Over the months the issues became more complicated and in some instances, very emotional.

