



## TACB bases permit fees on project cost

When the Texas Air Control Board adopted a permit fee system, Dec. 3, it joined other state regulatory agencies that for many years have collected fees for their permits and licenses. Implemented Jan. 1, the rule establishing the system for collecting fees for construction permits issued by the agency now is part of Regulation VI (Permits).

The board action was authorized by the 66th Legislature, which amended the Texas Clean Air Act (TCAA) in 1979 to include the permit fees section. The Act states that the fees collected should cover the reasonable costs of permits review and of implementing and enforcing the permit's provisions but does not specify a particular fee system.

The system adopted by the board is designed to recover review costs of TACB permitting ac-

tivity, estimated at \$1.1 million annually. The fees, however, will not go to the TACB but will become part of the state's General Revenue Fund.

Fees are based on the cost of building a new facility or modifying an existing one. The one-time charge is calculated at 0.1 percent of the estimated project capital cost with a minimum fee of \$300 and a maximum of \$7,500. The maximum fee adopted is set by the TCAA.

Fee Schedule	
Project Cost	Fee
Less than \$300,000	\$300
\$300,000—\$7.5 million	.1% of Project
Greater than \$7.5 million	\$7500

Sources exempted from the requirement to obtain a permit will not be charged a fee. Neither will

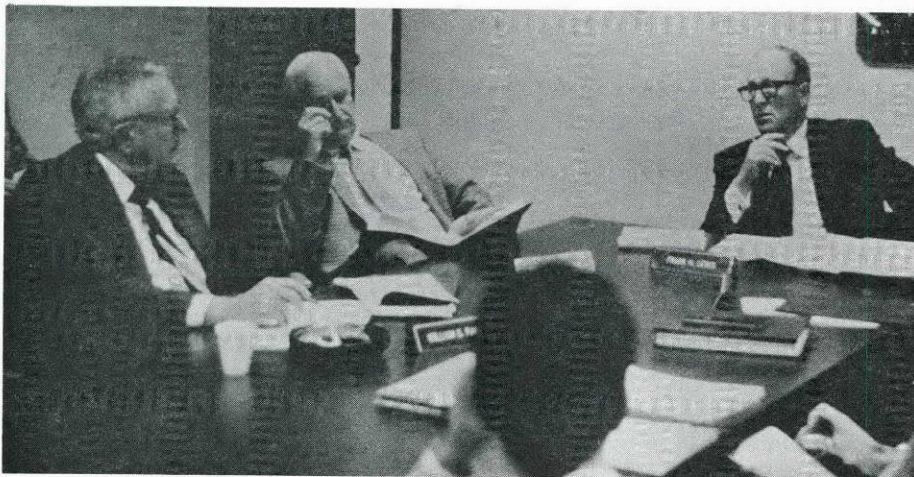
fees be charged for operating permits, permit amendments and revisions, site approvals for permitted portable facilities, changes of location, or changes of ownership of permitted facilities.

The system based on project cost was adopted after two years of board consideration and public hearings and meetings, including meetings with an industrial advisory group.

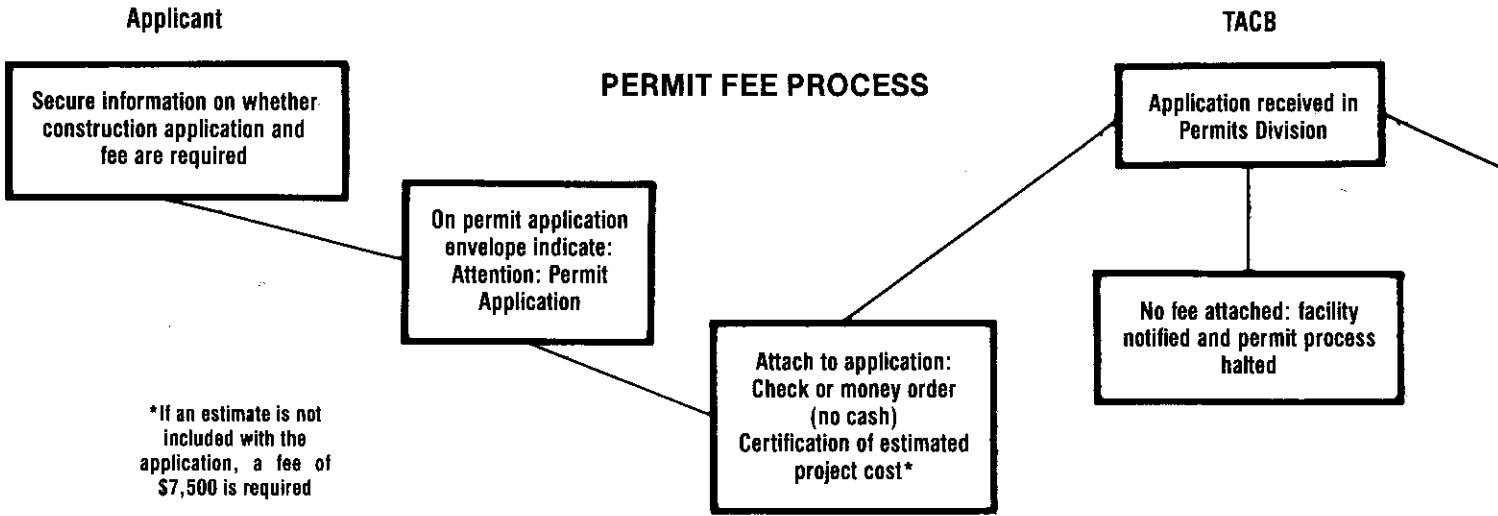
In July 1980, TACB Chairman John Blair appointed an ad hoc committee on permit fees to study the feasibility and methods of charging fees if the board decided to establish a fee system. Ad hoc committee members were Frank Lewis, Bay City; William Allan, San Antonio; and William Parish, Mercedes.

Before making its recommendations to the full board, the committee spent months considering opinions expressed by elected officials and industrial representatives and studying the fee systems of other states and Texas agencies.

At the time the board was considering the permit fee issue, 19 states already were operating fee systems, five were developing systems, and 11 had been given the authority but had not developed a system. Only 15 states had not been authorized to develop a fee schedule. Among Texas state agencies, the TACB was one of only a few that were not charging for their permits. (continued)



Ad hoc Permit Fee Committee members (left to right): William Parish, William Allan, and Chairman Frank Lewis



**CRITERIA**

In considering the best fee system for Texas, the ad hoc committee established criteria to evaluate the various proposed systems:

**Simplicity:**

The system must be simple and easily understood to minimize confusion on the part of permit applicants and TACB staff.

**Equity:**

The system should treat each facility as fairly as possible. The committee found this criteria the most difficult one to meet because of differences in the facilities applying for permits and in the level of expertise of persons completing the application. In addition, a fee system may be equitable in reflecting the actual costs of processing a particular permit; however, the fee for one facility may be substantially larger than the fee for a similar facility of equal cost and emissions because of circumstances beyond the first applicant's control. Such circumstances may include the cost associated with any public hearings or meetings that might be initiated by others.

**Cost To Administer:**

Administrative costs must be minimal and in no event ex-

ceed the amount recovered by the fee.

**Accuracy In Recovering Costs:**

The system should accurately recover actual agency review costs. Although important to the committee, this criterion was not considered to be the determining factor in selecting a system. The committee sought to carry out what it believed to be the legislative intent of recovering reasonable cost of TACB permitting activity rather than the cost of each individual permit.

Agency review costs were computed using the hourly cost of review time, the average hourly processing time for permits, and the projected number of new permits that would be issued in subsequent years.

Total Estimated Cost for 300 Construction Permits and 300 Operating Permits Per Year	
Number of Reviews	300
Average Direct Labor/Review	70 hours
Average Cost Per Hour	\$53
<b>Total Estimated Cost</b>	<b>\$1.11 million</b>

Although extensive agency resources are devoted to processing specific exemptions and providing service to many persons who do not obtain construction permits, the ad hoc committee concluded

that it would not be equitable or appropriate to attempt to recover the full cost of the agency's total New Source Review Program (\$2.3 million). The committee decided to recommend that the charges recover only the estimated costs of the construction and operating permit programs associated directly with issuing specific permits (\$1.1 million).

**FEE SYSTEMS CONSIDERED**

Before selecting the system finally adopted by the board, the ad hoc committee considered and discarded a number of options:

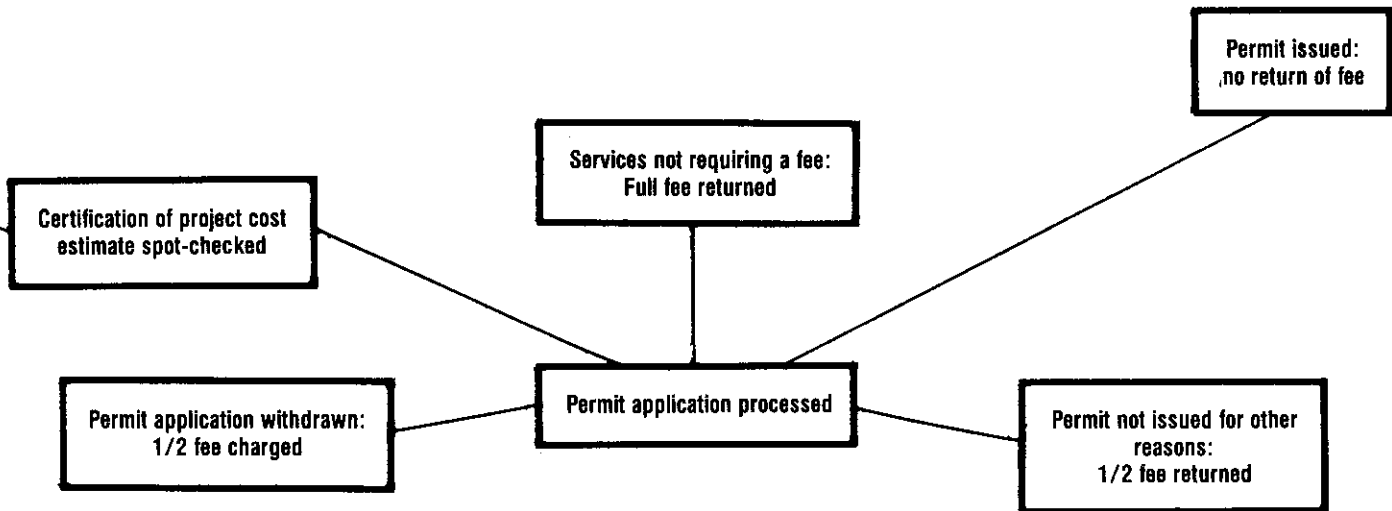
**Uniform Fee Schedule:**

A flat fee schedule charges all applicants an equal fee despite the size of the facility, the quantity of agency resources spent in processing the permit, or the emissions from the facilities.

Although simple to administer, a uniform fee schedule does not equitably recover the cost of issuing permits. If the average cost per permit based on the calculated agency costs were used, the uniform fee would be in excess of \$3,700 for each permit—clearly unfair to the smaller facilities.

**Fee Schedule:**

A schedule based on some



factor such as facility type, amount of emissions, or energy consumption is relatively easy to administer; however, development of the schedule is an ongoing and complex task. In addition, the factors cannot be related to the actual cost of review.

**Actual Agency Cost:**

A fee based on actual agency cost accurately recovers review costs but is expensive to administer because of the time-accounting functions

the staff must implement. In addition, the system results in delays in issuing permits because the fee cannot be determined in advance.

**PROJECT COST SYSTEM**

After considering each fee system at length, the committee decided that, although no system could meet all the criteria, one based on project capital cost was the most desirable. The committee concluded that such a system would be relatively simple, not costly to administer, and equitable

because those constructing the most expensive projects would pay the highest fee and those constructing the least expensive projects would pay the lowest fee. (See Table 1 for correlation analysis.) The system also should have a minimal impact on permit processing time because the applicant would be able to predetermine the fee and submit it with the application.

In addition, data studied by the committee showed that, although the system would not necessarily recover the cost of processing each permit individually, it generally would recover the total average cost of permitting activities.

The committee decided to recommend that project capital cost be based on the estimated total cost of the equipment and services that normally would be capitalized according to standard corporate financing and accounting procedures. The cost would include the reasonable estimates of the capital values of various direct and indirect costs. (See Table 2, next page.)

The committee also recommended that a one-time fee for construction permits should be charged with no additional fees required, unless the permitted facility made modifications requiring additional permits, and that fees

(continued)

**Table 1  
Correlation Analysis of Average  
Project Cost Data with Average Engineering  
Review Time for Construction Permits  
Issued in 1980**

<i>Project Cost</i>	<i>No. of Permits</i>	<i>% of Permits</i>	<i>Average Project Cost</i>	<i>Average Engineering Review</i>
Less than \$300,000	79	30	\$100,000	18 Hrs.
Greater than \$300,000 but less than \$7.5 million	137	52	\$1.9 million	23 Hrs.
Greater than \$7.5 million	49	18	\$60.9 million	46 Hrs.

Correlation Coefficient Average Project Cost with Average Engineering Review Time - 0.9

Note: Cost Data available on 265 permits. Remaining permits issued in 1980 were either change of location, change of ownership, multiple permits or no cost data available.

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should be charged for each integrated project rather than for each permit. The committee determined it to be desirable to define a fee project in terms of construction time (one year) and logically related operating units rather than charging for individual permits that the agency may issue for one project.

Five hearings on the proposed permit fee rule were held in May, June, and November in Austin, Houston, Beaumont, and Odessa.

Testimony from the hearings indicated, generally, that industry was opposed to the rule and that other groups and individuals testifying were in favor of the fee system.

After studying the testimony, the board adopted a fee system for the state based on the method recommended by the ad hoc committee.

For more information concerning the permit fee system, contact Jim Myers, Permits Division director, at the TACB Austin office.

**Table 2**

**Direct Costs:**

- Process and control equipment not previously owned by the applicant and permitted in Texas.
- Auxiliary equipment, including exhaust hoods, ducting, fans, pumps, piping, conveyors, stacks, storage tanks, waste-disposal facilities, and air pollution control equipment specifically needed to meet permit and regulation requirements.
- Freight charges.
- Site preparation (including demolition), construction of fences, outdoor lighting, road, and parking areas.
- Installation (including foundations), erection of supporting structures, enclosures or weather protection, insulation and painting, utilities and connections, process integration, and process control equipment.
- Auxiliary buildings, including materials storage, employee facilities, and charges to existing structures.
- Ambient air monitoring network.


**Indirect Costs:**

- Final engineering design and supervision, and administrative overhead.
- Construction expense, (including construction liaison), securing local building permits, insurance, temporary construction facilities, and construction clean-up.
- Contractor's fee and overhead.

(Certification of the estimated costs is required to be submitted with the application if the estimated project cost is less than \$7,500,000. Certification will be randomly checked and evaluated for reasonableness of the estimates.)

## TACB ACTIVITIES

	1982 Jan.-Dec.
<b>Enforcement</b>	
Investigations	13,791
Notices of Violations	2,678
Complaints	2,901
Administrative Enforcement Conferences	22
<b>Legal</b>	
Hearings Held	16
Lawsuits	5
Board Orders	16
Judgments	8
<b>Permits</b>	
Construction:	
Applications Received	312
Permits Exempted	93
Permits Issued	160
Exemptions	785
Operating Permits Issued	321



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