

## Oakland's Permit Tracking Control: Managing Long-term Risk

In 1997, the City of Oakland created an innovative institutional control that can assist you with the implementation of effective and cost-efficient corrective actions at contaminated sites: permit tracking.

### *What is an institutional control?*

Institutional controls are those controls that can be employed by responsible parties and regulatory agencies to ensure the future protection of human health and environmental resources when contamination at levels of potential concern will remain at your site. The implementation of effective institutional controls is often crucial to allaying concern among regulators and site neighbors that the conditions upon which risk-based standards are based (e.g., the existence of an asphalt cap covering contaminated soil) might be compromised in the future. Institutional controls that are commonly used include deed restrictions, land use restrictions, access controls, recording notices and contractual obligations.

### *When and How is the Permit Tracking Control Applied?*

If your site is granted “conditional” regulatory site closure (i.e., closure is dependent upon certain conditions being maintained in the future), it will be flagged in the City of Oakland Permit Tracking System (PTS). The PTS is a computerized system that tracks all City permits from filing to issuance and provides the user with a permitting and inspection history. Central Permit Counter staff, who process all permitting operations related to development, inspection and enforcement under the building, planning, zoning and housing codes of the City, record all new permitting information in the PTS.

Future permit applications for work that might alter the conditions of site closure or require compliance with a risk management plan are routed for special review to the City of Oakland Fire Department, Hazardous Materials Management Program (HMMP).

#### ***Example: Ensuring Future Protection***

You are planning to redevelop a former shipyard as a packaging facility. Petroleum hydrocarbons present in the soil from past uses are measured at concentrations below the commercial/industrial RBCA levels but above the residential RBCA levels. The lead regulatory agency agrees to apply the commercial/industrial RBCA standards provided that the site remains non-residential. The City of Oakland permit tracking control will ensure that future applications for change of land use permits undergo special review and that the risk posed by the remaining petroleum hydrocarbons is re-addressed if residential land use is ever proposed.

### *What are the Benefits of Oakland's Permit Tracking Control?*

The permit tracking control helps to allay community concerns and bolster regulatory agency confidence that the conditions of site closure will be complied with. This, in turn, facilitates the implementation of cost-effective corrective actions. In some cases, the permit tracking control may also obviate the need for a deed restriction that could unfairly stigmatize and devalue your property.

### *How does the Permit Tracking Control Work?*

The City of Oakland permit tracking control relies on three main components: interagency communication, a one-stop shop for City permits, and hazardous materials expertise on City staff. Under the City's permit tracking control, the regulatory agencies copy the City of Oakland HMMP on all closure letters and accompanying documentation, such as risk management plans. The HMMP, which has a seat at the City's "one-stop shop" Central Permit Counter, enters information on sites receiving conditional closure into the Permit Tracking System (PTS). Sites where closure is not dependent upon any conditions remaining in place are not flagged in the PTS. Closure documentation on all sites is filed away for future reference in the HMMP library.

Permit applications are only routed for special review by the HMMP if they (1) involve work that may alter the site conditions upon which regulatory closure was granted or (2) involve work that may otherwise trigger compliance with a risk management plan (RMP). The procedures for routing permit applications for special review categorize city permit applications into three types.

- ☞ "No review" permits involve work that never threatens to alter the site conditions upon which regulatory closure was granted or trigger compliance with an RMP (e.g., re-roofing);
- ☞ "Discretionary review" permits involve work that may, but often does not (e.g., electrical rewiring)
- ☞ "Mandatory review" permits (for excavation work, grading work, land use changes and variances) involve work that by its nature always necessitates special review.

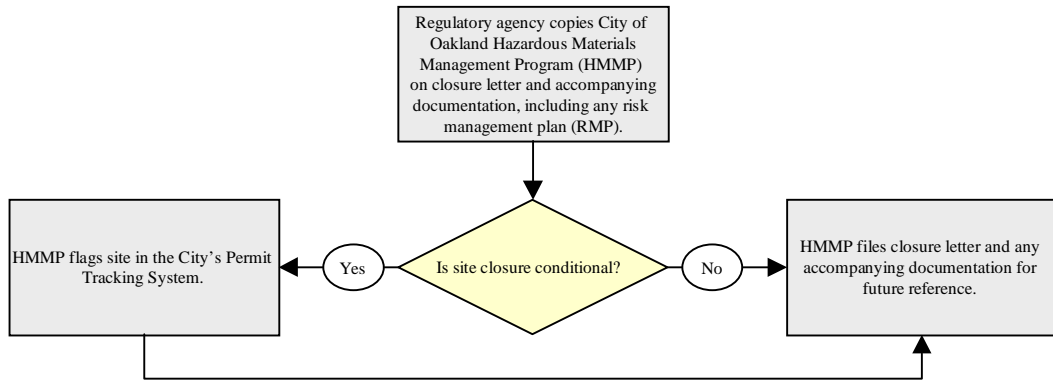
Applications for "no review" permits undergo no special review and are processed under standard procedures. Applications for "discretionary review" permits frequently require no special review and are immediately processed under standard procedures. However, if Central Permit Counter staff reviews information available through the PTS and determines that the proposed work may either alter site conditions or trigger RMP compliance, the application is routed to the HMMP for special review. Applications for "mandatory review" permits are always routed to the HMMP for special review.

The PTS does not allow for permits under special review to be issued until cleared in the PTS by the HMMP. The HMMP consults its copies of the closure letter and any accompanying documentation prior to making one of three determinations:

- (1) issue the permit; no contamination-related concerns exist
- (2) issue the permit once the applicant has shown how compliance with the closure letter or RMP will be achieved
- (3) direct the applicant to contact the regulatory agency that issued the closure letter to obtain approval for the proposed work

Figures 1 and 2 present the regulatory and permitting decision-making processes for the permit tracking control in flow chart form.

**Figure 1. Interagency Communication and Data Storage Procedures for Sites Granted Regulatory Closure**



**Figure 2. City of Oakland Permitting Process for Sites Granted Conditional Regulatory Closure**

