

DRAFT REQUEST FOR APPROVAL

To: Mark Leary
Deputy Director

From: Howard Levenson
Assistant Director

Request Date: May 12, 2010

Decision Subject: Approval of Guidelines for Implementing the Used Oil Payment Program
(Used Oil Recycling Fund)

Action By: May 19, 2010

Summary of Request: Changes to CalRecycle's used oil program are required to implement provisions of Senate Bill 546 (Lowenthal, Chapter 353, Statutes of 2009). This memo provides an outline, and seeks approval, of the Used Oil Payment Program (OPP) and Guidelines (Attachment 1), which includes staff's proposed criteria and procedures for implementing the OPP in accordance with Senate Bill 546 and in consideration of stakeholder's comments.

Recommendation: Staff recommends approval of the OPP Guidelines.

Deputy Director Action: On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve the proposed Guidelines for the Used Oil Payment Program (OPP).

Dated: _____

Mark Leary
Deputy Director

Attachment: Used Oil Payment Program Guidelines (rev. 5-6-10)

USED OIL PAYMENT PROGRAM GUIDELINES AND TIMELINE

Background and Program Development

Public Resources Code (PRC) 48600 et seq. establishes the California Oil Recycling Enhancement Act (Act) which provides for, among other things, funding to assist local governments in developing and maintaining an on-going used oil and used oil filter collection/recycling program for their communities. Senate Bill (SB) 546 made numerous changes to the Act, including the following key changes specific to local government funding and the used oil program include:

- Changing the funding from an entitlement grant program (formerly known as the Used Oil Block Grant Program [UBG]) to a payment program (now referred to as the Used Oil Payment Program [OPP]);
- Increasing the maximum OPP funding to \$11 million per year (up from \$10 million); and
- Encouraging local governments to use a minimum of one million dollars (approximately 10 percent of their individual OPP funding) on collection and recycling of used oil filters.

The Act did not change the basic intent of the program; to assist local governments in developing and maintaining an on-going used oil and used oil filter collection/recycling program. It authorizes the Department of Resources Recycling and Recovery (CalRecycle) to develop more specific guidance for this program and related annual reporting needs. In accordance with SB 546 and in consideration of stakeholder input, staff has developed a simple, programmatic framework (OPP Guidelines Attachment 1). Once approved, the Guidelines will serve as the primary reference for program administration. Local governments can participate in the OPP effective with the application period that begins June 2, 2010, for FY 2010/11.

Development of the OPP Guidelines and process has included numerous meetings of working groups comprised of knowledgeable stakeholders and CalRecycle staff. The following groups were established to participate in developing the proposed program design:

1. An Internal (CalRecycle) Workgroup whose members include management and staff from the Legal Office, the Financial Assistance Division and the Administration and Finance Division (Accounting, Budgets, and Audits);
2. A Program Team for review and development of an online application and reporting system for the OPP; members are the Grant and Loan Resources (GLR) Branch, Knowledge and Integration Branch, and Information Management Branch; and
3. An external Stakeholder Workgroup that included GLR Branch management and staff and stakeholders chosen from our current UBG grantees who represent the various demographic types of grantees (rural, urban, small and large, etc.).

In addition to these workgroups, a Hazardous Household Waste Information Exchange workshop was held on March 17, 2010, in San Luis Obispo. A presentation was made where participants provided input on the proposed program components and various information and ideas were shared. Additional comments were made at the April 14, 2010, Materials Management and Local Assistance meeting and in response to a survey sent to all stakeholders (UBG Program Grantees and Consultants).

Survey participation was significant (153 responses from approximately 250 invitees) with stakeholders expressing an overwhelming desire to avoid the administrative burden of tracking interest earned on OPP payments. After much discussion, staff from Program, Legal Office, Administration and Finance have agreed to a 24 month term and payment structure that staff believes address stakeholder's concerns while

providing appropriate fiscal control. Other comments from the survey have been incorporated, when appropriate, into the revised Guidelines (Attachment 1).

Key Issues

The Guidelines reference applicable statutory authority; outline eligibility and application process; specify needed support documentation (resolutions, letters of authorization or designation, etc.); outline the OPP term and payment process; redefine the role of the Program Advisors (previously referred to as Grant Managers); define eligible and ineligible program costs and publicity and education requirements; define records retention and audit considerations; and provide definitions and various options related to termination of agreement. The program components incorporated in the OPP Guidelines significantly reduce administrative requirements and add programmatic flexibility while maintaining an appropriate level of fiscal and programmatic reporting.

The issues that have generated, by far, the most comments from stakeholders are the project term and interest tracking requirements. As mentioned earlier, staff has developed a structure that should be embraced by stakeholders, yet provides appropriate fiscal and programmatic oversight. The UBG program allowed three years for expenditure of grant funds. The proposed OPP Guidelines (see page 3 "Terms and Payments" in Attachment 1) specify a 24 month term (beginning July 1) with a single payment of the annual allocation made to Recipients. Payment shall be made in April of the first year of the term, except when a Recipient can demonstrate that other appropriate funds are not available (such as prior year(s) UBG or OPP monies) to fund necessary oil program activities prior to receipt of the April payment. In those circumstances, a recipient may request and receive their annual payment in October, instead of April. Funds must be expended by the end of the term or returned to CalRecycle. A Recipient may, on an exception basis, request up to a 6 month extension of this term. This consideration is especially important for smaller or rural Recipients that may occasionally need to combine funds from three fiscal years in order to purchase equipment or pay for a significant expenditure to improve their overall oil program effectiveness.

The effectiveness of the payment timing and other OPP components will be reviewed periodically to ensure they continue to meet stakeholder, programmatic, and fiscal needs.

Comparison of Program Changes (OPP and UBG) and Basis for OPP Guidelines

While statutory changes did not alter the program intent, the OPP Guidelines significantly reduce the administrative requirements while retaining core principles and practices which have proven effective in management of the used oil program. The following table compares various OPP and UBG programmatic components and provides the framework for the topics within the new OPP Guidelines:

PROGRAM COMPONENT	USED OIL PAYMENT PROGRAM (OPP)	USED OIL BLOCK GRANT PROGRAM (UBG)
Program Eligibility	No Change	Local governments that comply with PRC 48691 are eligible to apply for the OPP. PRC 48691 generally requires a local government to have one certified collection center per 100,000 residents and/or a curbside program that includes used oil collection at least monthly and a public education program component that informs the public of locally available used oil recycling opportunities.

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Program Intent	No Change	The program intent is to assist local governments in development and maintenance of a used lubricating oil and used oil filter collection/recycling program. The program also includes mitigating storm-water pollution from used oil and oil byproducts and development of education programs aimed at minimizing illegal disposal of used oil.
Audit Provisions	No Change	The applicant/payment recipient agrees to maintain records for a possible audit for a minimum of three years after final payment or grant term end date, whichever is later, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later.
Expenditure of Funds	No Change, except that written notification of award replaces the signed Grant Agreement.	Program allowed incurring expenses, at Grantee's risk, prior to receipt of the final signed Grant Agreement (subject to receipt/approval of Application and Annual Report and state budget approval).

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Oil Filter Collection and Recycling	<p>PRC 48653(a)(3)(C) states, in part, "...that at least one million dollars (\$1,000,000) be made available specifically for used oil filter collection and recycling programs." Program is encouraging recipients to spend at least 10% of payment awards on used oil filter collection and recycling efforts; and report approximate percentage spent.</p>	<p>There was no specific used oil filter collection and/or recycling provision prior to SB 546.</p>
Application Process	<p>A streamlined, user-friendly, online application process will be used and only one summary document will be printed and signed.</p>	<p>The hardcopy application process involved several mailings of hard copy documents to and from CalRecycle and Grantees which was very time consuming combined with the potential loss of documentation.</p>
Guidelines	<p>The new OPP Guidelines retain appropriate legal, financial, and programmatic language while removing unnecessary restrictive requirements. The ten-page document will only change in the event there is a programmatic need.</p>	<p>Two documents (Procedures and Requirements and Terms and Conditions) totaling 35 pages were reviewed and updated annually for each grant cycle. Language was based on a contract model with requirements which made the program administratively burdensome.</p>
Agreement(s)	<p>Submission of an online application begins the process. The Applicant's Signature Authority signs an application summary document which, upon approval of the application, constitutes the "Agreement."</p>	<p>Separate and formal Grant Agreements were prepared for each approved applicant. Significant preparation time and sending hard copy agreements between CalRecycle and grantees to obtain signatures resulted in a very time consuming process.</p>
Programmatic Oversight	<p>Program Advisors will have time to:</p> <ul style="list-style-type: none"> • Conduct routine site visits with Recipients; • Increase communications through webinar and/or teleconferencing; • Develop new and innovative outreach activities; and • Focus on program evaluation and development of additional best practices and other tools. 	<p>Programmatic and grant project oversight was minimal due to extensive administrative paperwork requirements.</p>

A proposed Timeline for OPP Implementation is provided below:

Proposed Timeline for Used Oil Payment Program (OPP) Implementation

Target Date	Activity
May 2010	<ul style="list-style-type: none"> • MMLA public meeting – provide revised OPP Guidelines (May 12) • Discuss OPP implementation at Household Hazardous Waste Information Exchanges (May 20 and 25) • Conduct Webinar training sessions for potential applicants, including a review of the application process and approved Guidelines (May 25 and June 7) • Post new OPP webpage and related webpage updates • Post Notice of Funds Available webpage
June 2, 2010	Begin online application process
June 30, 2010, 3:00 p.m.	Online application deadline
July 30, 2010	All supporting application documents (resolutions, letters of authorization, etc.) due to CalRecycle
August 15, 2010	Annual Report due for Used Oil Block Grants
September 2010	Finalize list of approved Payment Recipients and payment calculations
October 2010	Issue payments to Recipients eligible for early payment
April 2011	Issue payments to all other Recipients