

**REQUEST FOR APPROVAL**

**To:** **Tom Estes**  
Deputy Director, Administration and Finance

**Howard Levenson**  
Assistant Director, Materials Management and Local Assistance Program

**From:** **Shirley Willd-Wagner**   
Division Chief, Financial Assistance Division

**Request Date:** June 17, 2010

**Decision Subject:** Approval of Distribution of Used Oil Payment Program (OPP) Funds to Qualifying Recipients (Used Oil Recycling Fund, Fiscal Year 2009/10)

**Action By:** June 22, 2010

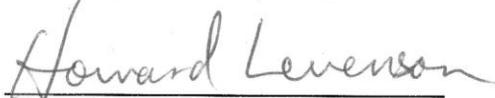
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**Summary of Request:** The Department of Resources Recycling and Recovery (CalRecycle) is authorized to make awards and payments to local jurisdictions for the implementation of local Used Oil Collection Programs, consistent with Public Resources Code (PRC) Sections 48601 et seq. The Used Oil Payment Program (OPP) Criteria and Guidelines were approved on May 24, 2010 (Attachment 1). On March 15, 2010, \$1,919,000 from the Used Oil Recycling Fund for Fiscal Year (FY) 2009/10 was approved to be distributed under the OPP process described in the Guidelines.

**Recommendation:** Staff recommends approval of payments to qualifying OPP Recipients as identified in Attachment 1.

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**Deputy Director Action:** On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby conditionally approve payments to qualifying OPP Recipients on the attached list. The conditions of approval are that Recipients must:

1. Submit a completed application by June 30, 2010, and an acceptable Annual Report for the Used Oil Block Grant Program by August 15, 2010, as specified in Public Resources Code 48690 and further described in the OPP Guidelines.
2. Demonstrate compliance with the used oil collection and public education requirements specified in PRC 48691 subdivisions (a) and (b).
3. Provide full repayment of any outstanding debt, accounts receivable or payment owed by the Recipient (or Participating Jurisdiction, if applicable) to CalRecycle within 90 (ninety) calendar days of the date of this conditional approval.

**Dated:** June 21, 2010



**Howard Levenson**  
Assistant Director



**Tom Estes**  
Deputy Director

**Attachments:**

1. Request for Approval: Approval of Guidelines for Implementing the Used Oil Payment Program
2. Request for Approval: Used Oil Fund Allocation Proposal 2009/10
3. Proposed Used Oil Payment Program (OPP1A) Awards
4. Grant Management System (GMS) Encumbrance Report

## Background and Findings:

### Statutory Authority

Public Resources Code (PRC) 48600 et seq. describes 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 546 (Lowenthal, Chapter 353, Statutes of 2009) made various changes to the Act, including:

- Changing the funding from an entitlement grant program (formerly known as the Used Oil Block Grant Program [UBG]) to a payment program (referred to as the Used Oil Payment Program [OPP]); and
- Increasing the funding for the OPP to \$11 million per fiscal year (up from \$10 million) in accordance with PRC 48653(a)(3).

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 CalRecycle to develop more specific guidance for this program and related annual reporting needs. In accordance with SB 546, CalRecycle developed Guidelines (Attachment 1) which further describe the statutory authority, eligibility, payment process and other aspects of program administration.

### Used Oil Recycling Fund (FY 2009/10) Payments to Qualifying OPP Recipients

At the March 10, 2010 Materials Management and Local Assistance meeting, the Oil Fund Allocation for FY 2009/10 was discussed and subsequently approved (Attachment 2). The proposal and discussion included a \$1,919,000 allocation from FY 2009/10 to be distributed to UBG15 Grantees through the OPP process. In order to be qualified to receive a portion of the allocation, a jurisdiction must be a UBG15 Grantee (or a Participating Jurisdiction) and be an OPP Recipient (or a Participating Jurisdiction).

Staff and management discussed various approaches to equitably divide the allocation, in order to be consistent with CalRecycle's interpretation of the Legislative language contained in trailer bill AB 11 (Evans, Chapter 11, Statutes of 2009 Fourth Extraordinary Session) which states, in part,

“... During the fiscal year 2009-10 and 2010-11, the board shall apply any necessary reductions to block grants in an equitable manner that takes into account prior year block grants that are held in reserves by local organizations as available for grantees to use in their operations.”

Although this statutory language describes how to apply reductions in funding, it is reasonable to apply the same rationale in providing additional funding.

The selected approach provides greater funding (55 percent of the allocation) to Recipients that have provided documentation by August 15, 2009, that they fully expended funding from their UBG13 (FY 2007/08) funding and a lesser amount (45 percent of the allocation) to all other Recipients who have not fully expended their available UBG13 funding as of August 15, 2009. Funding will not be provided for jurisdictions which would have otherwise received the minimum payment of \$5,000 and \$10,000 for cities and counties, respectively. This is because jurisdictions that receive the minimum payment receive more funding than they would if their funding were based strictly on a population basis. Payment calculations were based on January 2010 population figures in accordance with PRC 48653(a)(3).

The FY 2009/10 allocated funds will be encumbered now and then distributed along with the FY 2010/11 OPP funds to Recipients in either April 2011 or, if eligible for early payment, in October 2010 (see Guidelines, Attachment 1, for early payment eligibility). All funds shall be available for expenditure until June 30, 2012, and are subject to annual reporting starting in August 2011.