REQUEST FOR APPROVAL

To: **Howard Levenson**
Deputy Director, Materials Management and Local Assistance Division

From: **Michelle Martin**
Branch Chief, Financial Resources Management Branch

Request Date: July 1, 2014

Decision Subject: Eligibility Criteria and Evaluation Process for the Rubberized Pavement Grant Program (Tire Recycling Management Fund, FYs 2014/15 and 2015/16)

Action By: July 15, 2014

Summary of Request:
This memo seeks approval of the proposed eligibility criteria and evaluation process for the Rubberized Pavement (Pavement) Grant Program for FYs 2014/15 and 2015/16.

Staff proposes to conduct the FYs 2014/15 and 2015/16 grant cycles using the same application process, applicant eligibility, project eligibility, and evaluation process as was used in the FY 2012/13 cycle (there was not a FY 2013/14 cycle), except as described under *Proposed Changes* and summarized below:

- Change reimbursement amounts for rubberized asphalt concrete (RAC) and rubberized chip seal projects
- Increase the minimum use requirement to 40,000 (increased from 35,000) square yards of rubberized chip seal
- Pursuant to AB 513, add state and local governmental agencies as eligible entities for certain types of projects

Recommendation:
Staff recommends approval of the proposed eligibility criteria and evaluation process for the Rubberized Pavement Grant Program for FYs 2014/15 and FY 2015/16.

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 eligibility criteria and evaluation process for the Rubberized Pavement Grant Program for Fiscal Years 2014/15 and 2015/16.

Dated: 7/15/14

Howard Levenson

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Deputy Director

Background and Analysis:

Statutory Authority

CalRecycle receives an annual appropriation from the California Tire Recycling Management Fund (Tire Fund) to administer the California Tire Recycling Act, Senate Bill 937 (Vuich, Chapter 35, Statutes of 1990) (Public Resources Code [PRC] Sections 42860 et seq.). PRC Sections 42872 and 42873 allows for the awarding and funding of grants for activities and applications that result in reduced landfill disposal or stockpiling of waste tires.

Assembly Bill 513 (Frazier, Chapter 499, Statutes of 2013) added PRC Section 42872.1 and made changes to eligible applicants, projects, and the approach used to reimburse grantees. These changes are described more fully below under *Proposed Changes*. Senate Bill 861 (Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2014) Section 150 clarified PRC 42872.1 to cover the broader term "rubberized pavement" rather than "rubberized asphalt concrete". The Pavement Grant Program falls within the authority of PRC Sections 42872, 42872.1, and 42873.

The *Five-Year Plan for the Waste Tire Recycling Management Program (Seventh Edition Covering Fiscal Years 2013/14 – 2017/18)* allocates $3,000,000 each for FYs 2014/15 and 2015/16 for the Pavement Grant Program. This amount may change in the next edition of the Five-Year Plan, which affects allocations starting in FY 2015/16. The FY 2014/15 Budget Act includes a Budget Change Proposal which provides an additional $5,000,000 allocation for rubberized pavement grants beginning in FY 2014/15 and continuing each FY through 2018/19.

Program Background

The Pavement Grant Program is designed to promote the use of rubberized pavement while encouraging the recycling of California-generated waste tires. The Pavement Grant Program provides competitive grants to "Local Governments" (cities, counties, or city and county) as defined in Public Resources Code Section 48617 and to Qualifying Indian Tribes. The grants fund public works projects that use RAC or rubberized chip seal (also referred to as rubberized pavement) materials from only California-generated waste tire material. Staff proposes to add state and local government agencies as eligible entities for certain types of projects (see *Proposed Changes)*.

The Pavement Grant Program expands the market for rubberized pavement by encouraging first-time or limited users of rubberized pavement in two areas:

1. *Rubberized Asphalt Concrete (RAC):* Eligible projects must use a minimum of 3,500 tons of RAC. Grant awards in this category are proposed to be based on a fixed dollar amount per ton of rubberized asphalt mix. Previously, grant awards were based on the differential cost of using RAC versus conventional asphalt concrete and the tonnage of RAC used (see *Proposed Changes*).

2. *Rubberized Chip Seal (Chip Seal):* Staff proposes that eligible projects must use a minimum area of 40,000 (increased from 35,000) square yards of RAC chip seal material. Grant awards in this category are based on a fixed amount (proposed to be $0.50 changed from $1.00 or $0.50, depending on previous usage) per square yard of chip seal (see *Proposed Changes*).

The maximum grant award is $250,000. Applicants that have been awarded Pavement Grants are not eligible to apply in the following fiscal year. Accordingly, those who received FY 2013/14 funding under the Pavement Grant Program cannot apply until FY 2015/16. Projects must use material that contains a minimum of 300 pounds (equivalent to 15 percent by weight) of tire-derived crumb rubber per ton of rubberized binder.

Proposed Process and Eligibility

Staff proposes to conduct the FYs 2014/15 and 2015/16 grant cycles using the same application, review, and evaluation process as in past cycles, except as noted below under *Proposed Changes*. Staff will perform a review of all applications to determine completeness. Complete applications will be evaluated to confirm applicant and project eligibility and determine the recommended grant amount.

Consistent with existing practice, applicants who received any Rubberized Pavement grant in the preceding three fiscal years, and either withdrew a grant or used less than 50% of a grant award will only be considered after all other eligible applicants have been recommended for award. Also consistent with existing practice, initially available funding will be allocated (approximately) two-thirds for RAC projects and one-third for rubberized chip seal projects.

It is possible that the program will be over-subscribed, in which case the following process will be used to prioritize funding decisions. As shown in the table below, RAC applications will be categorized into three groups based on the number of previous rubberized pavement grants. All RAC-1 projects will be funded before any RAC-2 project and all RAC-2 projects will be funded before any RAC-3 projects. In the event of ties within any of the grant program funding categories, staff recommends the following tiebreakers be applied in sequential order for eligible applicants:

a. Applicants who did not receive funding in the past two fiscal years.
b. The greatest number of pounds of crumb rubber proposed to be used in its project(s).

Proposed Changes

1. *Change reimbursement amounts for RAC and rubberized chip seal projects*
   Assembly Bill 513 (Frazier, Chapter 499, Statutes of 2013) made various changes to eligible applicants, projects, and the approach used to reimburse grantees. References to "rubberized asphalt concrete" were modified by trailer bill language (Committee on Budget and Fiscal Review, Chapter 35, Statutes of 2014), Section 150 to "rubberized pavement". Among other elements, described below, Assembly Bill 513 directed CalRecycle to award grants in the amount of $2 per 12 pounds of crumb rubber and that CalRecycle may adjust the amount to a greater or lesser amount if it determines that the different amount would further the purposes of the statute.

   The Pavement Grant Program requires that projects must use material that contains a minimum of 300 pounds (equivalent to 15 percent by weight) of tire-derived crumb rubber per ton of rubberized binder. Eligible applicants typically specify the minimum amount (or percentage) of rubber used in the binder. The amount of rubber per ton of hot mix can vary due to the amount of rubber in the binder and amount of binder used in the mix. The quantity of rubber per ton of hot mix typically ranges from 18-34 pounds. For determination of the reimbursement for this program, 24 pounds of crumb rubber per ton of hot mix is assumed.

In an effort to determine what reimbursement amount would be necessary to motivate eligible applicants to use rubberized pavement and further the purposes of the statute, CalRecycle conducted a survey of jurisdictions throughout the state to determine the level of experience with rubberized pavement and the differential paid between conventional and rubberized pavement. Based on the survey and the requirement of AB 513 that grants be based on an fixed dollar amount for a specific amount of crumb rubber used, staff proposes that the recommended grant amount be calculated using a base rate per ton of rubberized asphalt mix rather than the previous difference between the cost of conventional asphalt and rubberized asphalt (for RAC projects). Based on the results of that survey, CalRecycle determined that a base rate of $10 per ton of RAC mix and $0.50 per square year of rubberized chip seal should be appropriate to motivate new users of rubberized pavement.

Additionally, to increase usage of rubberized pavement, CalRecycle staff proposes that continuing a "laddered" approach for RAC grants (i.e., providing less of an incentive depending on grantee experience with the rubberized material) would be appropriate to further the market development purpose of the statute. For chip seal projects, staff proposes that applicants be eligible for up to five grants (increased from a maximum of three grants) and that the grant amount continue to be a fixed dollar amount per square yard of material, albeit at a reduced amount. See the Proposed Rubberized Pavement Grant Program Categories and Reimbursement Rates table for details regarding reimbursement amounts.

The table below identifies the grant categories and proposed reimbursement basis.

Proposed Rubberized Pavement Grant Program Categories and Reimbursement Rates

Grant Category	**Proposed** Number of Previous Rubberized Pavement Grants*	**Current** Number of Previous Rubberized Pavement Grants*	Proposed Grant Award Basis
RAC - 1	0 - 1	0	Total grant award is based on 100% of the base rate
RAC - 2	2 - 3	1	Total grant award is based on 70% of the base rate
RAC - 3	4 - 5	2	Total grant award is based on 40% of the base rate
Chip Seal	0 - 5	0 - 3	$0.50 per square yard

* RAC categories are based on the number of previously funded RAC, TRI, and TRP (RAC) grants. Chip Seal eligibility is based on the number of previously funded TCS and TRP (chip seal) grants.

2. *Increase the minimum use requirement to 40,000 (increased from 35,000) square yards of rubberized chip seal*

   In an effort to foster larger, more cost-effective projects, staff proposes a small increase in the minimum number of square yards of rubberized chip seal. According to CalRecycle engineering staff, 40,000 square yards approximates the typical amount of rubberized chip seal applied on a project in a single work day.

3. *Addition of state and local governmental agencies, including regional park districts as eligible entities for certain projects*

As previously indicated, Assembly Bill 513 made various changes to the Pavement Grant Program. These changes include adding:

1. Local governmental agencies as eligible entities for rubberized pavement projects.
2. State and local governmental agencies, including regional park districts as eligible entities for disability access, Class 1 bikeways, and greenways.

The proposed program changes would result in the following eligibility:

- Local Governments (cities, counties, or city and county), local governmental agencies (special districts, Joint Powers Authorities [where all JPA members are also otherwise eligible applicants] and regional park districts), and Qualifying Indian Tribes will be eligible for rubberized pavement (RAC and rubberized chip seal) projects which may include disability access projects at parks, Class 1 bikeways, and greenways.
- State agencies would be eligible for only disability access projects at parks, Class 1 bikeways, and greenways.

Because of the amount of paving material used, disability access, Class 1 bikeways, and greenway projects may be combined with eligible roadway projects in order to satisfy Pavement Grant Program minimums. A greenway is a travel corridor for pedestrians, bicycles, non-motorized vehicle transportation, recreation, or a combination thereof, located along natural landscape features, such as an urban watercourse.

Tentative Timeline for FYs 2014/15 and 2015/16

As shown in the table below, staff will post a Notice of Funds Available on CalRecycle's website informing potential applicants of the funding, eligibility requirements, deadlines, and other important information. Notices will also be distributed through CalRecycle's Local Assistance and Market Development staff to inform their local jurisdictions, the Grants Management System database, applicable listservs, outreach presentations, and newsletters.

Tentative Dates		Activity
FY 2014/15	**FY 2015/16**	
August 2014	March 2015	Post Notice of Funds Available, Application, and related instructions and documents on the web site
October 2014	May 2015	Applications due
November/ December 2014	May/June 2015	Conduct application evaluation/review process; determine funding for eligible applicants
January 2015	July 2015	Grant awards
January/ February 2015	July/August 2015	Grant Agreements distributed and executed
April 1, 2017	April 1, 2018	Grant term ends

Please refer to CalRecycle's website, www.calrecycle.ca.gov/Tires/Grants/Pavement/default.htm, for more information.