

# Request for Approval

**To:** **Matt Henigan**  
Deputy Director, Materials Management and Local Assistance Division

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

**Request Date:** June 8, 2020

**Decision Subject:** Eligibility Criteria and Evaluation Process for the Rubberized Pavement Grant Program (Tire Recycling Management Fund, Fiscal Years 2020–21 and 2021–22)

**Action By:** Revised December 15, 2020 ~~June 16, 2020~~

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## Summary of Request

Staff seeks approval of the proposed eligibility criteria and evaluation process for the Rubberized Pavement Grant Program (Program) for fiscal years (FYs) 2020–21 and 2021–22.

Staff proposes to use the same eligibility criteria and evaluation process that was used in FY 2019–20, except as described under the Proposed Changes section and summarized below.

1. Require evidence that applicable public works staff participate in web-based or in-person tire-derived aggregate training.
2. Require ~~evidence that~~ the applicant (and participating entities if a regional application) to implement best management practices regarding its vehicle and equipment fleet.
3. Provide an inducement for either committing to the evaluation of specific materials/products or adopting and implementing policies that further specific CalRecycle and environmental goals.
4. Base grant awards on estimated tons of asphalt rubber hot-mix and square yards of rubberized chip seal.
5. Eliminate the reimbursement of the full cost difference between asphalt rubber hot-mix and conventional asphalt.
6. Restrict grantees from applying the year following award.
7. Limit eligible applicants to a maximum of five previous asphalt rubber hot-mix or rubberized chip seal grants.
8. Reduce the maximum grant amount to \$250,000 for individual applicants and \$350,000 for regional applicants.
9. Rank regional grantees that expend less than 50 percent of a grant award to the lowest priority ranking, if applying for a grant within the next three fiscal years.

# Recommendation

Staff recommends approval of the proposed eligibility criteria and evaluation process for the Rubberized Pavement Grant Program for FYs 2020–21 and 2021–22.

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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 approve the eligibility criteria and evaluation process for the Rubberized Pavement Grant Program for FYs 2020–21 and 2021–22.

**Dated: December 15, 2020**

**Signed By: Matt Henigan**

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Matt Henigan  
Deputy Director

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Dated

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## Background and Analysis

### Statutory Authority

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

The draft *Five-Year Plan for the Waste Tire Recycling Management Program* (Tenth Edition Covering Fiscal Years 2019–20 to 2023–24) allocates \$4,387,000 and \$3,787,000 for FYs 2020–21 and 2021–22, respectively, for the Program. Because of uncertainty regarding COVID-19 impacts on the state budget, funding is subject to change.

### Program Background

The Program promotes the use of rubberized pavement while encouraging the recycling of California-generated waste tires. The Program provides competitive grants to eligible applicants (described below). The grants fund public works projects that use asphalt rubber (also referred to as rubberized asphalt concrete or RAC) hot-mix or rubberized chip seal (collectively referred to as rubberized pavement) materials from only California-generated waste tires.

**Table 1. Program Allocation, Requests, and Approved Grants  
(Amount in thousands)**

<b>Fiscal Years</b>	<b>2014–15</b>	<b>2015–16</b>	<b>2016–17</b>	<b>2017–18</b>	<b>2018–19</b>	<b>2019–20</b>
Allocation Amount	\$8,000	\$7,550	\$9,610	\$7,750	\$9,923	\$6,383
Requested Grant Amount	\$6,908	\$5,650	\$10,360	\$5,912	\$10,735	\$9,831
Approved Grant Amount	\$6,917	\$5,282	\$9,558	\$5,817	\$9,923	\$6,383

## **Proposed Process and Eligibility**

Staff will review all applications for completeness and eligibility. Complete applications will be evaluated to confirm project eligibility and determine the recommended grant amount.

### **Eligible Applicants**

- Local Governments (cities, counties, and cities and counties) as defined in Public Resources Code section 48617
- Other local governmental agencies (including regional park districts, special districts, and Joint Powers Authorities (JPA) [where all participating entities are otherwise eligible])
- Qualifying Indian Tribes
- State agencies (only for Class 1 bikeways, greenways, and disability access projects at parks)
  - Because of the amount of paving material used, disability access, Class 1 bikeways, and greenway<sup>1</sup> projects may be combined with eligible roadway projects in order to satisfy Program minimums.

### **Eligible Projects**

#### **Project Requirements**

- 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.
- Only California-generated waste tires, processed in California, shall be used in the crumb rubber portion of the project(s).
- Recycled end-of-life crumb rubber that meets all specifications and standards may be used, as appropriate, with prior written permission from the Grant Manager.

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<sup>1</sup> 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.

- Hot-mix project(s) must use a minimum of 2,000 tons of asphalt rubber hot-mix.
- Chip seal project(s) must use a minimum area of 40,000 square yards of chip seal material.

Applicants that have been awarded Program grants are not eligible to apply in the following year (see *Proposed Changes*). Reimbursement decreases (to 70 percent and 40 percent of the applicable base rate) as grantees gain experience using rubberized pavement and recognize the cost-effective benefits of using the material. This is reflected in Table 2, where hot-mix applications are categorized into three groups based on the number of previous Rubberized Pavement Grants (columns 1 and 2).

To address the cost differences in rubberized pavement throughout the state, applicants are categorized into one of two geographically-based Tiers (columns 3 and 4). In addition, regional applicants receive the full (Tier 1 or Tier 2) base rate, regardless of the reimbursement rate that a lead or participating jurisdiction would otherwise receive if submitting an individual application.

**Table 2. Program Categories and Reimbursement Rates (Individual Applicants)**

<b>Grant Category</b>	<b>Number of Previous RAC Grants<sup>2</sup></b>	<b>Tier 1</b> (Applicants in the following counties: Los Angeles, Orange, Ventura, San Bernardino, & Riverside)	<b>Tier 2</b> (Applicants in all counties not in Tier 1)
RAC-1	0–1	Total grant award is based on 100 percent of the \$10 per ton base rate (\$10 per ton).	Total grant award is based on 100 percent of the \$20 per ton base rate (\$20 per ton).
RAC-2	2–3	Total grant award is based on 70 percent of the \$10 per ton base rate (\$7 per ton)	Total grant award is based on 70 percent of the \$20 per ton base rate (\$14 per ton)
RAC-3	4–5 <sup>3</sup>	Total grant award is based on 40 percent of the \$10 per ton base rate (\$4 per ton)	Total grant award is based on 40 percent of the \$20 per ton base rate (\$8 per ton)
Chip Seal	0–5	50 cents per square yard	\$1 per square yard

<sup>2</sup> RAC categories are based on the number of previously funded Rubberized Asphalt Concrete Use, Targeted RAC Incentive, and Rubberized Pavement for RAC hot-mix and chip seal grants. Chip Seal eligibility is based on the number of previously funded rubberized Chip Seal.

<sup>3</sup> Proposed to be decreased to five previous grants (so that maximum number of grants is six), see *Proposed Changes*.

~~Consistent with existing practice, available funding initially will be allocated (approximately) two-thirds for RAC projects and one-third for rubberized chip seal projects. The maximum grant award is \$250,000 for individual applications and \$350,000 for regional applications (see *Proposed Changes*).~~

~~If the Program is over-subscribed, the following process will be used to prioritize funding decisions. As shown in Table 2 above, RAC hot-mix 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 funding categories, the following tiebreakers will be applied in sequential order for eligible applicants:~~

- ~~1. Applicants who did not receive funding in the past two fiscal years~~
- ~~2. The greatest number of pounds of crumb rubber proposed to be used in its project(s)~~

If CalRecycle receives more requests for funding than provided for with available monies (i.e., if the program is oversubscribed), consistent with existing practice, initially available funding will be allocated (approximately) 67 percent to RAC hot-mix projects and 33 percent to rubberized chip seal projects. The actual amount allocated to hot-mix and chip seal is subject to change, depending on the amount of eligible applications received.

Staff will use the following process to prioritize funding recommendations for eligible applicants:

1. As required by statute<sup>4</sup>, applicants with a median household income less than 80 percent of the statewide median household income and whose grant request seeks a majority of funding (greater than 50 percent) for a greenway shall be given priority funding.
2. Applicants applying as a joint application.
3. Applications categorized as RAC-1 projects will be funded before any RAC-2 projects and all RAC-2 projects will be funded before any RAC-3 projects (see *Proposed Changes*). In the event of ties within any of the RAC or chip seal categories, the following tiebreakers be applied in sequential order:
  - a. Applicants that did not receive funding in the previous two fiscal years.
  - b. Applicants that propose to use the greatest amount of crumb rubber material in their project(s).

**Note:** Applications categorized as RAC-1 are applicants with zero to one previous RAC grants (see Table 2) and are considered “first-time” or “limited users.”

Notwithstanding the above and if the Program is oversubscribed, applicants that received a grant in the preceding three fiscal years and either withdrew a grant or used less than

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<sup>4</sup> [Public Resources Code § 42872.6](#)

([http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PRC&sectionNum=42872.6](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC&sectionNum=42872.6).) requires that applicants with a median household income less than 80 percent of the statewide median household income and whose grant request seeks a majority of funding (greater than 50 percent) for a greenway shall be given priority funding.

50 percent of a grant award will only be considered after all other eligible applicants have been recommended for award.

## Proposed Changes

Staff is proposing changes from the past grant cycle as indicated below. The changes are in three areas: leveraging other CalRecycle goals, improved customer service and user-friendly process, and funding.

1. Require evidence that applicable public works staff participate in web-based or in-person tire-derived aggregate training.
2. Require ~~evidence that~~ the applicant (and participating entities if a regional application) implement best management practices regarding its vehicle and equipment fleet.
3. Provide an inducement for either committing to the evaluation of specific materials/products or adopting and implementing policies that further specific CalRecycle and environmental goals.
4. Base grant awards on estimated tons of asphalt rubber hot-mix and square yards of rubberized chip seal.
5. Eliminate the reimbursement of the full cost difference between asphalt rubber hot-mix and conventional asphalt.
6. Restrict grantees from applying the year following award.
7. Limit eligible applicants to a maximum of five previous asphalt rubber hot-mix or rubberized chip seal grants.
8. Reduce the maximum grant amount to \$250,000 for individual applicants and \$350,000 for regional applicants.
9. Rank regional grantees that expend less than 50 percent of a grant award to the lowest priority ranking, if applying for a grant within the next three fiscal years.

### Leveraging Other CalRecycle Goals

CalRecycle is an environmental leader and wants to encourage and support others to join in efforts to improve the environment.

#### **1. Require evidence that applicable public works staff participate in web-based or in-person tire-derived aggregate training.**

A key goal of CalRecycle's tire programs is the recycling and use of waste tires in other products/uses, including the use of tire-derived aggregate (TDA). In an effort to educate and encourage the use of TDA, staff believes it would be useful to provide outreach and education to local government public works departments.

As an applicant requirement, staff recommends that the applicant's public works department head (or designee) of engineering, design, transportation, environmental or sustainability division (subject to a minimum of one) be required to review a CalRecycle approved video (or attend in-person training, if available) regarding the use and benefits of TDA.

#### **2. Require ~~evidence that~~ the applicant (and participating entities if a regional application) implement best management practices regarding its vehicle and equipment fleet.**

The highest level on the waste management hierarchy is source reduction. One of the simplest ways to protect tire life is to ensure proper tire inflation that prevents excessive wear and premature failure.

As a requirement, staff recommends that applicants certify that their vehicle and equipment fleet will implement best tire management practices, including regularly maintaining (at least once per month) proper tire inflation, (at least) monthly tire condition and tread depth evaluation and regular tire rotation.

**3. Provide an inducements for either committing to the evaluation of specific materials/products or adopting and implementing policies that further specific CalRecycle and environmental goals.**

Many eligible applicants have strong environmental programs and should be rewarded for their leadership. Other eligible applicants may be considering improving their environmental efforts and would appreciate an additional inducement. ~~In an effort to both reward environmental leadership and encourage others to improve their environmental programs, staff recommends providing inducements.~~

~~If an applicant satisfies one of the following conditions, an applicant's request will receive priority funding before all other applications, except as required by statute. If an applicant satisfies two of the following conditions, an applicant's request will be prioritized (as indicated above) and will receive the greatest reimbursement rate allowed for its applicable tier (see Table 2):~~

- ~~A. The applicant adopts and implements a policy that rubberized pavement is either the default material or that an alternative bid using rubberized material must be considered for all appropriate pavement projects.~~
- ~~B. The applicant adopts and implements a policy that tire-derived aggregate (TDA) is either the default material or that an alternative bid using TDA must be considered for all appropriate projects.~~
- ~~C. The applicant adopts and implements a policy that it will use retread tires for all applicable fleet vehicles and equipment.~~

In an effort to both reward environmental leadership and encourage others to improve their environmental programs, staff recommends 1) ranking an application one "grant category" above the RAC category for which they would otherwise qualify and/or 2) provide priority funding within the Chip Seal category (see Table 2) if:

- A. An applicant commits to objectively reviewing and evaluating the use of rubberized pavement, TDA or retread tires for its vehicle and equipment fleet by submitting a letter of support from the Signature Authority, or
- B. An applicant adopts one of the following policies or procedures by submitting a Board Resolution, Letter of Commitment or equivalent document.
  - a. Rubberized pavement as the default material for appropriate roadways.
  - b. TDA as the default material for appropriate projects. See [TDA Application Guidelines](https://www2.calrecycle.ca.gov/Docs/Web/118146) (<https://www2.calrecycle.ca.gov/Docs/Web/118146>) for appropriate TDA project categories.
  - c. Retread tires for all appropriate vehicles and equipment.

### **Customer Service and User-Friendly Process**

The following recommendations are intended to improve customer service or make the grant process easier for the applicant and staff.

**4. Base grant awards on estimated tons of asphalt rubber hot-mix and square yards of rubberized chip seal.**

Currently, applicants specify street segments to be paved along with the estimated amount of asphalt rubber or rubberized chip seal. If a grantee's pavement plans change, the grantee must request approval of a project modification from the CalRecycle grant manager.

To improve customer service and reduce the administrative burden on applicants, grantees, and CalRecycle grant managers, staff recommends requiring the applicant to only indicate the requested amount of tons of asphalt rubber and/or square yards of rubberized chip seal. This will provide flexibility for the grantee to respond to possible changes in pavement priorities without the additional administrative burden. It will also reduce grant manager workload associated with recording/tracking the specific street segments and possible project modification requests.

**5. Eliminate the reimbursement of the full cost difference between asphalt rubber hot-mix and conventional asphalt.**

On July 19, 2016, CalRecycle approved eligible entities that had zero or one previous Rubberized Pavement grants to request the full cost difference between asphalt rubber hot-mix and conventional asphalt. Staff believed that by paying that cost difference and effectively eliminating the cost barrier, more jurisdictions would use asphalt rubber, realize its benefits, and continue using the material.

Program reimbursement rates typically cover all or most of the difference in cost between asphalt rubber and conventional asphalt. Additionally, many applicants/grantees found the documentation process very difficult. In some cases, grantees that chose the full cost difference would have received a greater reimbursement by requesting the standard reimbursement rate.

To make the program more user-friendly, staff recommends eliminating the full cost difference option.

## **Funding**

Due to a five-year, \$5 million increase in Tire Fund spending authority (ending in FY 2018–19) and uncertainty regarding future Tire Fund availability due to COVID-19 impacts, staff recommends program changes to more effectively align program demand with available funding.

**6. Restrict grantees from applying the year following award.**

On September 16, 2015, CalRecycle approved the ability of grantees to apply for program grants in the year following award. This change was due to the temporary increase in spending authority.

Since the temporary increase in spending has expired, staff recommends immediately returning to the previous requirement that grantees are not able to apply in the year following award. Staff believes that this change may improve funding availability for new and infrequent users of the material.

**7. Limit eligible applicants to a maximum of five previous asphalt rubber hot-mix or rubberized chip seal grants.**

On January 24, 2018, CalRecycle adjusted the number of previous asphalt rubber hot-mix grants for an eligible applicant to a total of seven from the previous level of five grants,



resulting in a maximum of eight grants. There was no change to the maximum number of six rubberized chip seal grants.

The intent of the program is to encourage entities to experience the performance and maintenance benefits of rubberized pavement. An important program goal is that entities prioritize the use of rubberized material because of its benefits regardless of grant funding availability.

For this reason and the reduced funding, staff recommends that eligible applicants be limited to a maximum of five previous grants for either asphalt rubber or rubberized chip seal material. Eligible entities that have received the maximum number of grants for one material may still be eligible for the other material. This results in eligible entities being able to receive a maximum of 12 grants (six asphalt rubber grants and six rubberized chip seal grants).

**8. Reduce the maximum grant amount to \$250,000 for individual applicants and \$350,000 for regional applicants.**

On July 19, 2016, CalRecycle increased the maximum grant award to \$350,000 for individual applicants and \$500,000 for regional applicants. The maximum awards were previously \$250,000 for individual applicants and \$400,000 for regional applicants.

Because of funding restrictions, staff recommends reducing the maximum grant awards to \$250,000 for individual applicants and \$350,000 for regional applicants. Staff believes this reduction will allow additional jurisdictions to receive awards.

**9. Rank regional grantees that expend less than 50 percent of a grant award to the lowest priority ranking, if applying for a grant within the next three fiscal years.**

CalRecycle has allowed regional applications since FY 2011–12. Regional applications may support CalRecycle’s market development efforts by having a stronger, more experienced pavement lead provide the expertise associated with bidding and project coordination. Less experienced participants benefit from the experience of the lead and receive technical assistance from CalRecycle. Both the lead and participant benefit from the lower costs anticipated from economies of scale associated with a larger quantity of rubber paving. The intent is that regional partners will realize this benefit and continue their partnership regardless of whether there are grant funds available.

On September 16, 2015, CalRecycle made various changes to encourage regional applications including preferential treatment in certain circumstances. If a grant solicitation was oversubscribed (more requests than available monies), individual applicants that were awarded a program grant in the previous three fiscal years, but either withdrew their grant or used less than 50 percent of their grant award, would be considered only after all other eligible applicants have been awarded. However, regional applicants were excluded from this requirement.

In the interest of equity, staff recommends that regional applicants (both lead and participants) be treated the same as individual applicants in the case of a grant program oversubscription.

# Tentative Timeline for Fiscal Years 2020–21 and 2021–22

Staff will post a Notice of Funds Available on CalRecycle’s website that includes the funding, eligibility requirements, deadlines, and other important information. Notices will 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.

**July 2020:** Post Notice of Funds Available, application, and related instructions and documents on the web site

**January 2021 ~~September 2018~~:** Question and Answer Period

**February 2021 ~~October 2020~~:** Applications due

**March 2021 ~~November/December 2020~~:** Conduct application evaluation/review process and determine funding for eligible applicants

**March 2021 ~~December 2020~~:** Approve grants

**April ~~January/February~~ 2021:** Distribute and execute Grant Agreements

**April 1, 2023:** Grant term ends

Please refer to [CalRecycle’s website](https://www.calrecycle.ca.gov/Tires/Grants/Pavement/),  
(<https://www.calrecycle.ca.gov/Tires/Grants/Pavement/>) for more information.