

County of Santa Clara

Recycling and Waste Reduction Commission
Integrated Waste Management Division

1553 Berger Drive, Building #1
San Jose, California 95112
(408) 282-3180 FAX (408) 282-3188
www.ReduceWaste.org



Recycling and Waste Reduction Commission

February 25, 2009

Action Item:

TO: Recycling and Waste Reduction Commission

FROM: Technical Advisory Committee

SUBJECT: **Reauthorization of and Increase to Countywide AB939
Implementation Fee**

RECOMMENDED ACTION

Forward a favorable recommendation to the Board of Supervisors to reauthorize the AB 939 Implementation Fee and increase it by 55 cents from the current \$3.55 for a total of \$4.10 per ton for the new Agency Agreement for Countywide AB 939 Implementation Fee (\$1.50 Implementation Fee plus a new \$2.60 HHW Fee). The amount of 55 cents will be applied to the existing \$2.05 per ton fee used to fund countywide household hazardous waste (HHW) services, increasing the HHW total to \$2.60 per ton. This revenue would fund operational increases in the HHW program, and the anticipated annual lease cost of \$53,200 at the new San Jose facility starting FY 2010. The next term of the Agency Agreement shall be July 1, 2009 – June 30, 2010, with options to renew for two additional one-year terms.

Or

Forward a favorable recommendation to the Board of Supervisors to reauthorize the AB 939 Implementation Fee at the current rate of \$3.55 per ton for the new Agency Agreement for Countywide AB 939 Implementation Fee (\$1.50 Implementation Fee plus a \$2.05 HHW Fee). The next term of the Agency Agreement shall be July 1, 2009 – June 30, 2010, with options to renew for two additional one-year terms.

FISCAL IMPLICATIONS

The current Countywide AB 939 Implementation Fee is \$3.55 per ton. The proposed increase of \$0.55 to \$4.10 per ton will generate a total of approximately \$5.4 million in revenue in FY 2010. This is based on an estimated landfill disposal of 1.33 million tons per year. Of this revenue,

Commissioners: Jamie McLeod, Chair; Ronit Bryant, Kansen Chu, Peter Drekmeier, Patrick Kwok, Evan Low, Cat Tucker, Kris Wang, Ken Yeager

approximately \$2.0 million (\$1.50 per ton) would fund local jurisdictions' AB 939 compliance activities and \$3.4 million (\$2.60 per ton) would fund countywide HHW services. Under State law, this revenue is restricted to funding only AB 939 related costs. Funding of non-related AB 939 activities could make the fee vulnerable to legal challenge.

Increasing the AB939 Implementation Fee to \$4.10 would fund operational increases in the HHW program, a 4% base level of service, and the anticipated annual lease cost of \$53,200 at the new San Jose facility, located at 1608 Las Plumas Avenue, starting FY 2010. If the facility is not ready for occupation on July 1, 2009, the additional revenues will pass-thru to the cities' Discretionary Fund.

Reauthorizing the Fee at the current level will under fund the program and place an increased burden on each city to find funding within their jurisdictions to provide service for residents needing HHW service.

CONTRACT HISTORY

Countywide AB939 Implementation Fee

The County has collected the AB939 Fee on behalf of all jurisdictions within the County since July 1992, when the initial \$1.00 per ton fee was established. The Board and local cities approved increases to \$1.15 in FY 1994, to \$1.30 in FY 1996, to \$2.80 in FY 2000, to \$3.35 per ton in FY 2003 through FY 2006. In FY 2007 the Fee was increased to \$3.72 to support anticipated increases in volumes of Universal Waste (UW) (i.e.: fluorescent lamps and bulbs and batteries). The Fee was reduced to \$3.55 for FY 2008 and FY 2009 to reflect the cost for actual collection volumes of UW.

Because the County collects the AB939 Fee on behalf of other jurisdictions, each jurisdiction contracts with the County for collection and distribution of these funds. All fifteen cities must approve an Amendment to the Agency Agreement for Countywide AB939 Implementation Fee by July 1, 2007. If one or more jurisdictions do not approve this amendment, the AB939 Fee will not be collected, effective July 1, 2009.

BACKGROUND

The AB 939 Implementation Fee was first used for HHW services effective July 1, 2000. The Fee is broken down into several components to effectively administer the countywide HHW Program. Those components are Fixed Cost, Variable Cost per car, and Discretionary Fund.

As hazardous waste volumes increase, each city must augment with city money, the funding generated by the AB 939 Fee to pay for rising costs.

Increased Base Level Participation

In FY 2001 when the AB 939 Implementation Fee took effect for HHW, the cities agreed on providing service to a minimum of 3% of households in each jurisdiction. Over the years, participation increased and all cities now augment the Fee with additional funding to support the actual resident participation rate. The countywide household participation rate in FY 2008 was 4.3%. At the January 8, 2009 TAC meeting, city representatives agreed to support an increase of the minimum base service level to 4%. This increases the households served from 17,845 to 24,911. In order to support the cities and the County and reduce the need to augment the Fee, an adjustment to the base level participation rate is desired.

Increased Waste Volumes

The Fee increase is necessary for HHW services to support the collection of increased hazardous waste volumes. As environmental issues such as pharmaceuticals in the water and the ban of many products from landfill become more publicized in the press, the volume of hazardous waste managed by the HHW Program continues to rise. Universal waste (UW) products, like fluorescent lamps and batteries, now banned from the landfills continue to show the highest growth patterns and increased in FY 2007/08. Table 1 below shows the annual increases experienced by the Program. Unless there are further bans in the future, waste volumes should remain stable over the next three years and can be managed with the recommended Fee level. Fortunately, Producer Responsibility is taking hold, as evidenced by the passage of AB 2347. The Mercury Thermostat Collection Act of 2008 (AB 2347) was chaptered into law, requiring manufacturers to collect and recycle mercury-containing thermostats and advancing producer responsibility in California. In addition, alternative collection mechanisms such as Retail Take-it Back Partners are assisting in the collection of UW and sharps and deflecting cost away from the countywide HHW Program.

As shown in Table 1 below, waste volumes increased significantly between FY 2006/07 and FY 2007/08.

TABLE 1

Fiscal Year	Universal waste in pounds	Total HHW in pounds
2005/06	119,368	2,339,000
2006/07	154,170	2,340,000
2007/08	225,516	2,993,000
2008/09*	240,000	3,000,000
2010/2012*	260,000	3,020,000

*Estimated

Increased Costs

As a result of increased hazardous waste volumes, cost to manage the waste has increased as well. Since the beginning of the AB 939 Implementation Fee three-year cycle (July 1, 2006), costs have increased as shown in Table 2 below.

TABLE 2

Fiscal Year	AB939 Tipping Fee per Ton	AB939 Tipping Fee Revenue for HHW Services	HHW costs	Deficit Compensated by City Augmentation & Unincorporated Surcharge
2004-2005	\$1.85	\$1,751,113.85	\$2,160,986.72	\$409,872.87
2005-2006	\$1.85	\$1,883,516.78	\$2,348,134.82	\$464,618.04
2006-2007	\$2.22	\$2,161,138.05	\$2,781,730.62	\$620,592.57
2007-2008	\$2.05	\$2,214,533.56	\$2,891,698.63	\$677,165.07
*2008-2009	\$2.05	\$2,194,963.29	\$2,900,000.00	\$705,036.00
*2009-2010	\$2.05	\$2,194,963.29	\$2,953,200.00	\$758,236.71

*The HHW revenue from Tipping fee and cost are estimates. The HHW cost in FY 09-10 includes a lease cost of \$53,200 for the new San Jose HHW facility.

**2009-2010	\$2.60	\$2,648,326.00	\$2,953,200.00	\$304,874.00
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**The HHW revenue from Tipping fee is based on a \$ 0.55 per ton increase and a 4% base level of service.

Tonnage is estimated at 1.33 million tons per year.

The goal of the increase is to reduce the deficit compensated by city and County augmentations above and beyond the funding generated by the AB 939 Implementation Fee. This increase of \$0.55 per ton to fund increased waste volumes, a 4% base level of service, and an annual lease cost at the new San Jose HHW drop-off facility will adequately fund Fiscal Years 2010 through 2012.

With the anticipation of the new San Jose HHW drop-off facility opening in fiscal year 2009-2010, approximately \$0.04 per ton of the \$0.55 per ton will be required to support leasing and maintenance costs for the site. Fair market leasing costs for use of the exterior paved areas, and associated maintenance and security costs for the site, have been estimated at \$53,200 annually. As the operational area for the HHW drop-off activities will span nearly 27,000 square feet of the exterior paved lot, the annual fair market rental cost is estimated at \$32,400, at \$1.20 per year per square foot. The remaining \$20,800 will be used to fund the activities of the on-site City maintenance staff and site maintenance operations, the equivalent of 20% of a City senior maintenance worker, which can be equated to the \$2 per vehicle “impact fee” as provided to the City of Sunnyvale for the annual lease of the HHW drop-off facility. The annual \$53,200 cost can be funded by increasing the AB 939 Implementation Fee by an additional \$0.04 per ton (based on the estimated landfill disposal of 1.33 million tons per year). Increasing the AB 939 Implementation Fee will ensure a consistent and dependable funding source to support this annual, recurring lease expense.

Currently, the Sunnyvale HHW drop-off facility is open for collection services on the third Saturday of each month, in which the County is subject to annual lease costs estimated at \$25,000 (\$4,855 for space rental and \$20,070 for vehicle impacts calculated at \$2 per vehicle) for use of approximately 13,000 square feet on site. In comparison, the San Jose HHW drop-off facility will provide nearly 27,000 square feet of exterior operational space, as well as paved parking areas for County staff and paved surfaces for residential traffic. This facility is scheduled to be open for collections eight days per month, of which four days will be dedicated to residential drop-offs, and four days will be dedicated to Conditionally Exempt Small Quantity Generators (CESQG). An on-site City senior maintenance worker will manage maintenance issues that may arise from use of the site and security issues required under the CEQA Initial Study.

The funding increase per ton shall be integrated into the Agency Agreement, with an initial term from July 1, 2009 – June 30, 2010, including options to renew the Agreement for two additional one-year terms. San Jose is requesting year-to-year agency agreements in order to accommodate anticipated Countywide HHW program and funding changes associated with the opening of the permanent indoor HHW facility at Las Plumas (Phase Two). Program and cost impact discussions are anticipated to begin at TAC in the 2009-2010 fiscal year. This second phase of the facility has been publicly detailed in the Master Plan of the project, in which the majority of the HHW collection activities would be performed inside the Las Plumas warehouse space. With an anticipated opening of the second phase of the site in 2010 – 2011, additional lease payments will be requested for use of the interior warehouse areas. Separate lease agreements would be developed between the City of San Jose and the County for the first and second phases of the San Jose HHW facility.

San Jose continues to aggressively research and pursue available assistance programs to support the funding for both phases of the San Jose HHW drop-off facility. Annually, San Jose re-invests AB 939 Discretionary Fund refunds into the capital appropriation for the Las Plumas site. San Jose also submitted for, and was awarded, a grant in the amount of \$250,000 from the California Integrated Waste Management Board to assist in the construction of the first phase of the facility. Other funding sources being actively sought include the submittal for National Economic Stimulus funds and grant opportunities with the California State Water Resources Board. San Jose has also already identified more than \$3.5 million of City funding to support the Las Plumas project.

CONSEQUENCES OF NEGATIVE ACTION

If the Board does not support the Recommended Action, the AB 939 Implementation Fee will no longer be collected.

COMMISSION ACTION AND NEXT STEPS

The Commission's recommendation will be forwarded to the cities and the Board for action. Following cities' approval, County staff will send the fee agreements, to the Board for action. If the Board and all the cities approve the amendment, the fee will continue to be collected through June 30, 2010.