

WATER COMMITTEE ISSUE SUMMARIES
ENFORCEMENT ISSUES
OCTOBER 2003

Minimum Mandatory Penalties: On January 1, 2000, SB 709, also known as the “Migden law,” took effect, which established discretionary pollution prevention programs and mandatory minimum penalties for NPDES violations. Subsequently, several bills have been enacted modifying the mandatory minimum penalty statute. These include SB 2165 (Chapter 807, Statutes of 2000), which provided some relief for dischargers issued Time Schedule Orders; AB 2351 (Chapter 995, Statutes of 2002), which addressed issues related to single operational upsets, startup of biological treatment processes, and allocation of penalties to supplemental environmental projects; and AB 1541 and AB 897 (passed by the Legislature in September 2003, pending action by the Governor), which would add new mandatory minimum penalties for failure to file reports and change the term “toxicity discharge limitation” to “toxicity effluent limitation.”

SWRCB issued guidance in the form of Question and Answers on SB 709 implementation in December 1999. The SWRCB issued an updated Question and Answer memorandum for the implementation of Mandatory Minimum Penalties in 2001. The document is located on the SWRCB website at http://www.swrcb.ca.gov/water_laws/index.html. The SWRCB Office of Chief Counsel is in the process of updating the MMP Question and Answer document. CASA and Tri-TAC provided the OCC with a list of proposed revisions to the Q & A document to improve implementation of the law. The SWRCB is expected to incorporate the new statutory changes into this update, if AB 1541 and AB 897 are signed into law.

~~Tri-TAC sent a letter to the SWRCB regarding chlorine residual limit compliance determinations and reporting. SWRCB has responded to say they are considering this issue. In the Bay Area, Regional Board staff has indicated a willingness to consider additional monitoring information (e.g. sulfur dioxide or bisulfite monitoring) in defining chlorine violations.~~

Enforcement Policy: The SWRCB adopted amendments to the Enforcement policy on February 19, 2002. The final version can be viewed at <http://www.swrcb.ca.gov/plnspols/index.html#waternews>. It incorporated essentially all of the Tri-TAC and CASA recommendations.

Contact: Margie Nellor, LACSD, Bobbi Larson, CASA
Current as of: October 2003