

Article 162      San Diego County Water Authority Transitional Special Agricultural Water Rate Program

Sec. 162.1      Purpose. The San Diego County Water Authority (SDCWA) Transitional Special Agricultural Water Rate Program (TSAWR) provides discounted wholesale supply pricing for qualified retail agricultural customers (TSAWR customers) within its service area. The supply pricing differential results from the TSAWR customers not paying the additional costs associated with the SDCWA developed supplemental supplies, including but not limited to the Imperial Irrigation District Transfer Supply, the All American and Coachella Canal Lining Supply, the Carlsbad Seawater Desalination Supply, and the SDCWA Storage Charge.

Sec. 162.2      Water Management Basis for TSAWR - In exchange for a reduced wholesale cost of water, TSAWR customers receive a lower level of retail supply and must be prepared to reduce consumption when, by the amount, and for the period of time as determined necessary by the Metropolitan Water District (MWD) and the SDCWA. Further, TSAWR customer reductions in water use go to benefit the Domestic/Commercial customers in the form of increased water supply availability during the periods that TSAWR customers are required to reduce water consumption.

Sec. 162.3      District Compliance with SDCWA TSAWR Requirements - In electing to participate in the TSAWR, the District is subject to the TSAWR implementation policies adopted by the SDCWA.

- (a) The District must comply with the mandatory water use reduction levels as determined by the SDCWA, including the SDCWA provision that the TSAWR reductions will be at least 5% more than the level of reduction required for non-TSAWR deliveries.
- (b) The District will be subject to over-use penalties and penalty payment conditions as established from time to time by MWD and the SDCWA for not complying with the mandatory water use reductions.
- (c) The District will be required to annually certify to the SDCWA that all associated TSAWR pricing differential benefits are fully passed through to the customers participating in the TSAWR.

Per Ordinance No. 2015-15 Adopted 9/8/15 [Art. 162]

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Sec. 162.4 Compliance with Superseding State Action - All SDCWA TSAWR implementation provisions may be superseded by state action through executive order, emergency legislation, promulgation of regulations or other actions which impose conditions, requirements, or procedures that are not included in this Article. The General Manager is authorized to implement such other actions, conditions, requirements or procedures as are reasonably required to bring the District into functional conformity with such conditions, requirements, or procedures. In such an event, the General Manager shall notify the Board of Directors of any such implemented actions, conditions, requirements or procedures at the next regular Board Meeting unless a special meeting is warranted and called for by the Board President, or Vice President in the President's absence.

Sec. 162.5 TSAWR Customer Qualification - To qualify for participation, the TSAWR customer must demonstrate that water delivered by the District is used for growing, raising, in conformance with recognized practices of husbandry, for the purposes of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural, or floricultural products, and produced for human consumption or for the market, or for feeding of fowl or livestock produced for human consumption or the market, or for the feeding of fowl or livestock for the purposes of obtaining their products for human consumption or for the market, such products to be grown or raised on a parcel of land having an area of not less than one acre dedicated to and utilized exclusively for the purposes described in this section.

- (a) TSAWR customers are subject to information and associated data requests from the District.
- (b) Properties receiving water under the TSAWR are subject to reasonable field inspection and audit access by the SDCWA and the District to determine if the use of water meets the TSAWR participation qualification requirements.
- (c) Failure by TSAWR customers to respond in a timely manner to requests for information and associated data and/or provide reasonable access for field inspection or audit of property receiving water under the TSAWR may result in automatic removal from the TSAWR and subsequent water use on the property will be classified as and billed as Domestic/Commercial.
- (d) TSAWR customers may be required by the District to recertify their qualifications for participation and, subject to District review, may be removed from TSAWR and reclassified as Domestic/Commercial customers, losing the benefit of the discounted pricing differential. Failure to complete the required recertification process in a timely manner, as determined by the District, may result in immediate removal from the TSAWR.

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Sec. 162.5

TSAWR Customer Qualification (Cont'd)

- (e) TSAWR customers who knowingly no longer meet the participation qualifications of the TSAWR are required to inform the District as soon as possible. TSAWR customers no longer qualifying for the discounted pricing differential and who have continued to accept the discounted supply may be required to refund the differential amount for the period in which the water was utilized for non-TSAWR qualified purposes.
- (f) Customers electing to voluntarily exit the TSAWR will still be subject to TSAWR-related reductions if the customer exiting utilized TSAWR water in the base year for a mandatory reduction in a subsequent year. TSAWR customers may not voluntarily exit during periods of water shortage allocations and mandatory reductions.
- (g) By SDCWA policy, only customers who were previously in the MWD-Interim Agricultural Water Program (IAWP) or SDCWA Special Agricultural Water Rate Program (SAWR) and TSAWR participants may re-enter the TSAWR program. Additionally, prior MWD-IAWP, SAWR and TSAWR participants may not re-enter the program during a TSAWR mandatory water use reduction period, as determined by the SDCWA.

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TSAWR Administration – As soon as is reasonably possible, the District will advise its TSAWR customers in writing of the effective date of reductions, the level of supply reduction needed to balance supplies with demand, the length of time the supply reduction is required, the base-year period against which supply reductions will be measured, the over-use fines and sanctions needed to achieve compliance with water supply allocations through water use reductions, a month to month customer specific water supply allocation based on water utilized in the identified base-year period, the percentage reduction mandated by the SDCWA, as well as any other pertinent information and specific implementation provisions.

- (a) Water supply allocations of individual properties in the TSAWR may be combined into a single account group (“account group”) for which the TSAWR customer can demonstrate an ownership or leasehold interest.
- (b) Upon request of the TSAWR customer, water allocation from a future month may be moved forward to increase the allocation in a given month while leaving a minimum of 10 HCF of supply in the month from which allocation was moved to another month once each fiscal year period in which a mandatory TSAWR reduction is implemented.

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Sec. 162.6      TSAWR Administration (Cont'd)

- (c) Combined allocations, conservation credits, and reallocations will only be applicable for the 12-month period following the call for a TSAWR water supply reduction.

Sec. 162.7      Enforcement of TSAWR Provisions – TSAWR customers shall be subject to the following enforcement provisions during the period in which a mandatory water use reduction has been implemented by the SDCWA and the District.

- (a) TSAWR customers using water at or below the monthly allocation will pay the normal applicable water rate. Any amount of water under the allocation can be used as a credit to offset a prior over-use penalty or be carried forward as a conservation credit against over-use in a subsequent month within the current 12-month implementation period.
- (b) TSAWR customers using water above the monthly allocation for an individual account or account group will pay the normal applicable water rate and any penalties for over-use as determined by MWD and the SDCWA.
- (c) A TSAWR account or account group which repeatedly and/or flagrantly exceeds monthly allocations will pay the normal rate, any applicable penalty rates as provided in Section 162.7(b), and be subject to the following sanctions, up to and including meter flow restriction:
  - 1. First Violation – If, at the end of any two consecutive billing cycles, a TSAWR account or account group usage is 15% or more above the cumulative allocation and any accumulated usage credits for that two month period, the TSAWR account or account group will pay the applicable penalty rate for the over usage and receive a notice and warning by phone call and registered letter.
    - A. The TSAWR account or account group shall be advised that if the account is still above the cumulative allocation at the end of the succeeding month, or third month, then effective with the start of the fourth month, the individual account or account group meters will be flow restricted to 50% of the meter design flow for the next 30 calendar days.
    - B. If, at the end of the fourth month, the usage is at or under the cumulative allocation for the preceding four months, the flow restrictor will be removed at the beginning of the fifth month.

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- C. If, at the end of the fourth month, the usage remains over the cumulative allocation for the preceding four months, the flow restrictor will remain in place until a subsequent account billing demonstrates that the cumulative usage for all preceding months is at or under the cumulative allocation.
2. Second Violation - If in any subsequent month after the First Violation during the 12-month reduction period, a TSAWR account or account group having previously been flow restricted again exceeds the usage allocation and accumulated usage credits by 15% or more, the account or account group will pay the penalty rate for over usage and receive notice and warning by phone and registered letter.
- A. The TSAWR account or account group shall be advised that if at the end of the succeeding month after the notice and warning, or second month, the cumulative consumption for the month in which the allocation was exceeded and the consumption for the succeeding month is still above the cumulative allocation for the two-month period, then the individual meter or account group meters will be flow restricted to 50% of the meter design flow.
  - B. The flow restriction shall remain in place until a subsequent account billing demonstrates that the cumulative usage for all preceding months is at or under the cumulative allocation.
3. Third Violation – If, in a subsequent month following the restoration of unrestricted flow to a TSAWR account or account group which had been flow restricted as a result of a Second Violation, usage exceeds the allocation and accumulated usage credits by 15% or more for that period, then the 50% design flow restriction will be implemented without warning and the meter flow restriction shall be in place for the duration of the mandatory reduction period.
4. The TSAWR account or account group will pay all reasonable labor, equipment and material costs associated with installing and removing of any and all flow restrictor(s).

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Sec. 162.8

Right to Appeal - TSAWR customers have the right to appeal any fine and or enforcement provisions.

- (a) Decisions made by staff can be appealed and addressed to the Director of Finance, or his designee. All appeals shall be filed within 15 calendar days of the date of the provision or decision being appealed. The Director of Finance shall then have 30 calendar days to render a written decision on the appeal.
- (b) Decisions by the Director of Finance may be appealed to the General Manager, or his designee, within 15 calendar days of the date of the decision by the Director of Finance. The General Manager shall then have 30 calendar days to render a written decision to the appeal.
- (c) All decisions by the General Manager may be appealed to the Board of Directors. Requests for appeals to the Board shall be made in writing within 15 calendar days of the decision by the General Manager and will be placed on an agenda for review and action at a subsequent meeting of the Board. The decision by the Board of Directors shall be final.
- (d) During the appeal process all implementation provisions and staff decisions under appeal shall remain in full effect until the conclusion of the appeal process.