

<u>Article 162</u>	<u>San Diego County Water Authority Permanent Special Agricultural Water Rate Program</u>
<u>Sec. 162.1</u>	<u>Purpose.</u> The San Diego County Water Authority (SDCWA) Permanent Special Agricultural Water Rate Program (PSAWR) provides discounted wholesale supply pricing for eligible agricultural customers (PSAWR customers) growing or raising, for commercial purposes, products of an agricultural, horticultural or floricultural nature, within its service area. The supply pricing differential results from the PSAWR 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.
<u>Sec. 162.2</u>	<u>Water Management Basis for PSAWR</u> - In exchange for a reduced wholesale cost of water, PSAWR customers receive a lower level of retail supply reliability and must be prepared to reduce consumption, by the amount, and for the period of time as determined necessary by the Metropolitan Water District (MWD) and/or the SDCWA. Further, PSAWR customer reductions in water use go to benefit the Domestic/Commercial customers in the form of increased water supply availability during the periods that PSAWR customers are required to reduce water consumption.
<u>Sec. 162.3</u>	<u>District Compliance with SDCWA PSAWR Requirements</u> - In electing to participate in the PSAWR, the District is subject to the PSAWR implementation policies adopted by the SDCWA. <ul style="list-style-type: none"> (a) The District must comply with the mandatory water use reduction levels as determined by the SDCWA, including the SDCWA provision that the PSAWR reductions will be at least 5% more than the level of reduction required for non-PSAWR 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 re-certify to the SDCWA that all associated PSAWR pricing differential benefits are fully passed through to the customers participating in the PSAWR.

Per Ordinance No. 2020-17 Adopted 12/21/20 [Sec. 162.1; 162.2; 162.3(a)(c)]
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 PSAWR 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 Entering and Exiting the PSAWR Program – New eligible PSAWR customers may apply to receive the PSAWR water rate at any time during non-service limitation periods such as cutbacks from Metropolitan, emergency, water shortage periods, periods under which there is a substantial threat of a mandatory water supply reduction, or when any level of SDCWA's Water Shortage Contingency plan is activated. Participating customers may opt out of the PSAWR program at any time during non-service limitation periods. Customers electing to voluntarily exit the PSAWR in a non-service limitation period will still be subject to PSAWR-related reductions if the customer exiting utilized PSAWR water in the base year for a mandatory reduction in a subsequent year. If a PSAWR program customer's account has been voluntarily opted out, the parcel number associated with that retail meter account will not be able to re-enter the PSAWR Program unless the parcel legally changes ownership in an arm's length commercial transaction verified by the District.

Sec. 162.6 Loss of Eligibility While Participating in the PSAWR – If an active PSAWR Program participant's parcel becomes ineligible for the PSAWR Program during a non-service limitation period by being removed or dropped from one of the four eligibility lists (Sec. 162.7) maintained by the County of San Diego or San Diego Regional Water Quality Control Board, the District, as a member agency, may appeal the participant's loss of eligibility by providing written notice and supporting documentation to SDCWA. Within 30 days of receiving the appeal request from the District, SDCWA shall review the appeal and provide a written response supporting or opposing re-instatement of the PSAWR Program participant's eligibility. An appeal request will not be considered if the participant requests in writing to opt-out of the PSAWR Program. Any decision of SDCWA is final.

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Sec. 162.7 **PSAWR Customer Eligibility** - To be eligible for participation, the PSAWR customer must demonstrate that water delivered by the District is used for growing or raising for commercial purposes – products of an agricultural, horticultural, or floricultural nature and demonstrate enrollment in and remain an active participant in one of the following four eligibility lists:

- (a) Eligibility Lists:
 - a. **General Agricultural Orders Enrollment List** with the San Diego Regional Water Quality Control Board;
 - b. **Grower's List** with the County of San Diego Department of Agriculture, Weights and Measures;
 - c. **Active Certified Producers List** with the County of San Diego Department of Agriculture, Weights and Measures;
 - d. **Organic Producers List** with the County of San Diego Department of Agriculture, Weights and Measures.
- (b) PSAWR customers are subject to information and associated data requests from the District.
- (c) Properties receiving water under the PSAWR are subject to reasonable field inspection and audit access by the SDCWA and the District to determine if the use of water meets the PSAWR participation qualification requirements.
- (d) Failure by PSAWR 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 PSAWR may result in automatic removal from the PSAWR and subsequent water use on the property will be classified as, and billed as, Domestic/Commercial.
- (e) PSAWR customers will be re-verified annually by the District to confirm their eligibility for participation in PSAWR and, subject to District review, may be removed from PSAWR 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 PSAWR.

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(f) PSAWR customers who knowingly no longer meet the eligibility requirement for participation in the PSAWR are required to inform the District within 30 days. PSAWR 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-PSAWR qualified purposes, and may otherwise be subject to penalties and charges as required by SDCWA.

Sec. 162.8

PSAWR Administration – As soon as is reasonably possible, the District will advise its PSAWR 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 (which base-year period shall be available), the penalties and charges 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 PSAWR may be combined into a single account group (“account group”) for which the PSAWR customer can demonstrate an ownership or leasehold interest.
- (b) Upon request of the PSAWR 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 the allocation was moved to another month, once each fiscal year period in which a mandatory PSAWR reduction is implemented.
- (c) Combined allocations, conservation credits, and reallocations will only be applicable for the 12-month period following the call for a PSAWR water supply reduction.

Sec. 162.9 **Enforcement of PSAWR Provisions** – PSAWR 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) PSAWR 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) PSAWR 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 PSAWR 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 162.9(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 PSAWR account or account group usage is 15% or more above the cumulative allocation and any accumulated usage credits for that two month period, the PSAWR 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 PSAWR 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.
 - 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.

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2. Second Violation - If in any subsequent month after the First Violation during the 12-month reduction period, a PSAWR 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 PSAWR 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 PSAWR 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 PSAWR 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. 162.10 Right to Appeal - PSAWR 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.