

May 29, 2026

Comment letter submitted via email.

Mr. Darrin Polhemus
Deputy Director, Division of Drinking Water
State Water Resources Control Board
P.O. Box 100,
Sacramento, CA 95812-2000

RE: Draft DDW Post Wildfire Resources

Deputy Director Polhemus,

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide technical input on the proposed Division of Drinking Water (DDW) Post-Wildfire Resources (PWR). The PWR were developed following ACWA's request¹ to work collaboratively and proactively to develop guidelines for future situations in which public water systems must navigate drinking water orders. We offer these substantive comments with goal of continuing to refine the PWR to be most useful to public water systems in future wildfire scenarios.

The Draft Post-Wildfire Resources:

- Are a positive step by DDW to clarify and assist public water systems navigating post-wildfire scenarios
- Should add a Precautionary Notice option to be used prior to Tier 1 Notice
- Need consistency between state law language and PWR provisions
- Require further refinement to:
 - Draft Order requirements for Tier 1 Notice
 - Clarify Findings and Authority
 - Meet consistency with replacement requirements for other distribution system components
 - Avoid creating additional requirements not included in AB 541
 - Clarify wildfire size requirements applied to Draft Orders
 - Clarify "damage" to a structure connected to a water system
 - Add Sampling Plan and Stagnation Requirement guidance
 - Re-consider flushing guidance
 - Correct misnamed appendices
- Need to find the balance of additional guidance, but room for flexibility

¹ ACWA submitted a comment letter on April 11, 2025 requesting development of PWR.

- Provide risk communication assistance
- Consult with stormwater/wastewater regulators

ACWA offers the State Water Board the following input:

Comment 1- Appreciate taking this step to establish PWR Guidelines

We appreciate DDW's effort to provide additional clarity and resources to assist water systems in navigating post-wildfire water quality challenges. In several important respects, the draft order and accompanying materials reflect responsiveness to concerns previously raised by ACWA and its member agencies. These include:

Timeliness- The language at the outset of the order clarifies that it may be issued immediately following a wildfire when it is "possible, believed, or known that a system may be impacted." This addresses concerns raised by several agencies, including Las Virgenes Municipal Water District, regarding the delayed issuance of the water quality order following the Palisades Fire, which occurred nearly a week after the fire had already passed through the district's service area.

Useful Appendices- The inclusion of appendices containing sample public notices, response flowcharts, and flushing guidance and procedures is particularly helpful. These practical tools were specifically sought in ACWA's prior correspondence and will provide meaningful support to water systems managing complex and time sensitive post wildfire response obligations.

Identified Requirements to lift Tier 1 Notice- We appreciate the added clarity regarding the requirements for lifting a Tier 1 public notice based on benzene detection levels. This information will help systems better understand the conditions under which notices may be rescinded and will support clearer communication with customers.

Comment 2- Add a Precautionary Notice option to be used prior to Tier 1 Notice

We encourage DDW to develop a clearly defined Precautionary Notice framework that can be used prior to, and distinct from, a Tier 1 Public Notice. A precautionary notice offers the water system freedom to prepare and craft a notice that includes certain key information; whereas a Tier 1 notice is very prescriptive with respect to language and water systems have little to no discretion on the language. This practice is widely used²

² Examples include:

- Virginia uses interim assessment prior to final Tier 1 Notice
- Massachusetts uses case-by-case Tier 1 determination after investigation
- Washington performs system assessment prior to public escalation

and wildfire incidents often present rapidly evolving conditions where utilities must act decisively despite incomplete information. In these circumstances, systems may need to inform customers of potential risks before the specific statutory triggers for a Tier 1 Notice, such as confirmed contamination or required monitoring thresholds, are met. Reliance on Tier 1 Notices alone may lead to either premature issuance or misalignment with statutory criteria, particularly under AB 541. We view adding a precautionary notice as a solution to work towards protecting the public without triggering a Tier 1 notice until the appropriate time to do so.

To address this gap, we recommend that DDW:

- Establish a standardized Precautionary Notice that can be issued based on credible wildfire-related risk factors (e.g., proximity of fire, infrastructure impacts, pressure loss concerns, or pending sampling results).
- Clearly distinguish this notice from Tier 1 requirements, including separate triggers, language, and intent, to avoid confusion or unintended regulatory consequences.
- Provide model language and guidance to support consistent risk communication across systems while maintaining flexibility for system-specific conditions.
- Ensure alignment with statutory requirements, so that Tier 1 Notices remain reserved for situations where regulatory thresholds are met, including confirmed contamination where required.

A well-defined precautionary notice would enhance public transparency and trust, empower water systems to communicate proactively, and maintain the integrity of existing regulatory notice frameworks. This approach reflects lessons learned across multiple wildfire responses and recognizes the need for practical, scalable tools tailored to emergency conditions.

Comment 3- Consistency between AB 541 and DDW Guidance in Implementing Drinking Water Orders

ACWA appreciates DDW's continued efforts to respond to wildfire-related drinking water risks and to provide direction to water systems through orders and supporting materials. It is critical that DDW ensure consistent application of drinking water orders in a manner that is fully aligned with the statutory framework established under AB 541 and DDW's own guidance and resources. Maintaining alignment with AB 541 is essential

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- Oregon uses precautionary advisory and sampling confirmation

not only for statutory compliance, but also to ensure that public messaging is accurate, targeted, and does not inadvertently create confusion or unnecessary alarm³. Orders and implementation practices should clearly reflect the conditional nature of the statute and avoid expanding notice requirements beyond what is authorized. Where DDW has provided updated frameworks or interpretive resources, these should be uniformly reflected in enforcement and implementation decisions across regions and incidents⁴.

Water systems remain committed to protecting public health and will act promptly and appropriately when benzene is detected. Ensuring that DDW requirements are clearly tied to actual detection and statutory triggers will further support timely, science-based decision-making at the local level. Improving consistency in this manner will strengthen regulatory credibility, support effective risk communication, and ensure that both regulators and water systems are operating within a clear and predictable framework during emergency response situations.

Comment 4- The PWR requires further refinement of numerous items specified below:

3A. Draft Order Requirements for Tier 1 Notice

Section II.1.a of the Draft Order incorrectly requires issuance of a Tier 1 Notice when either any portion of the system lost pressure or any structure connected to the distribution system has been damaged or destroyed by wildfire. Fire damage alone should not trigger a Tier 1 Notice⁵. This section of the draft Order is inconsistent with flow charts provided (“Wildfire Order Response Flow Chart” and “Wildfire Order Quick Reference Flow Chart”) which note that a Tier 1 Notice is necessary if both a wildfire of over 300 acres affected structures connected to the distribution system and pressure loss occurred.

3B. Draft Order- Clarify Findings and Authority

The second sentence of Item 9 in the Findings and Authority should be revised to read:

³ Section II appears to be internally inconsistent with the response flowcharts provided in Appendices E and F. The flowcharts suggest that the conditions described in both Section II.1.a and Section II.2.a must be met before triggering a Tier 1 public notice. This interpretation does not align with the use of the word “or” in Section II of the draft order. Clarifying this discrepancy would improve usability and reduce confusion during emergency response efforts.

⁴ Fire damage alone does not necessarily lead to the need for a Tier 1 Notice. This statutory framework appropriately ties public notification to the results of benzene sampling. However, Section II of the draft order requires issuance of a Tier 1 public notice when either:(1) any portion of the water system does not meet minimum pressure requirements (Section II.1.a); or(2) any structure connected to the distribution system has been damaged or destroyed by a wildfire (Section II.1.b).

⁵ Section 116596(b)(7), authorizes the State Water Board to require a public water system to notify its customers if it conducts sampling and finds detectable concentrations of benzene.

“Loss of pressure can allow contaminants to enter or migrate within the system.”
Changes or fluctuations in pressure occur routinely in water systems and should not, by themselves, be characterized as creating contamination pathways.

3C. Draft Order- Meet consistency with replacement requirements for other distribution system components

Section VI.2.a.ii.5. requires replacement of water meters serving lines with confirmed contamination. This should not be necessary if service lines are successfully remediated by flushing. It is appropriate to require meter replacement when service lines are replaced as noted in Section VI.2.a. iv.

3D. Draft Order- Avoid creating additional requirements not included in AB 541 or existing statute

Examples that appeared most recently included asbestos monitoring and coal tar lined tanks and mains. After review, we feel these both fall outside the intent of AB 541 and existing statute.

3E. Draft Order- Clarify wildfire size requirements applied to Draft Orders

Please confirm that the draft order applies only to wildfires of 300 acres or more, and clarify whether this threshold applies to the total wildfire acreage or only the portion affecting the subject water system.

3F. Draft Order- Clarify “damage” to a structure connected to a water system

Clarification is also requested regarding the meaning of “damage” to a structure connected to the distribution system, particularly in cases where homes outside the burn area experienced smoke damage but did not burn or partially burn.

3G. Appendix D- Add guidance to Sampling Plan and Stagnation Requirements

Additional guidance on sampling plans and stagnation requirements would be helpful. Specifically:

- How many samples are typically required (for example, a percentage of structures destroyed)?
- Will DDW consider shorter stagnation times (e.g., 24 or 48 hours) for initial benzene screening, and under what circumstances?
- Stagnation of water mains is unreasonable to ask for in this circumstance because of the hardship on customers whose homes/buildings were not damaged in the midst of fire recovery.

3H. Appendix G: Pre-Flushing Guidance

- Reconsider need for requirement to monitor discharge water quality for turbidity and disinfectant residual, at minimum. From a resource management perspective conducting this monitoring is taxing since the crews conducting the flushing may not include sampling staff.
- Reconsider need for individually flushing each service line serving a damaged or destroyed structure. This may not be practical due to the number of service laterals serving damaged or destroyed structures. Public water systems flush and stagnate the service laterals that they intend to evaluate, and flushing occurs when service is turned back on at damaged homes.
- Reconsider the need to maintain records of:
 - Flow rate achieved (measured)
 - Turbidity and disinfectant residual readings
 - Duration and estimated volume discharged

3I. Correct misnamed appendices

Appendix H is referenced in the Draft Order, but is missing. There appear to be a few errors in the list of Appendices- Appendix F is listed twice, Flushing is Appendix G, and the Supplemental Information is Appendix H.

4. Comment 4- Need to find the balance of additional guidance, but room for flexibility

As a general theme, we need to remember the goal of PWR is added guidance for PWS, without added rigidity to enable PWS to be as prepared as possible. When disaster strikes, PWS need to be able to do necessary work and communicate effectively with District Engineers about necessary steps to take. This should be a common sense guiding principle that we take in further refining the PWR.

5. Comment 5- Provide risk communication assistance

Given the focus on benzene exceedances, information on benzene-related health risks should be readily available to customers. This could be via a County or State Health Agency website or a SWRCB-DDW website. Ideally, a public information officer or equivalent at the State level should be available for consultation should questions arise.

6. Comment 6- Consult with stormwater/wastewater regulators

Flushing expectations should be developed in coordination with Regional Water Quality Control Boards and other agencies overseeing stormwater and sanitary sewer management, with an emphasis on reasonable implementation time frames during emergency response. Any guidance should recognize the practical constraints public

water agencies face in post-wildfire conditions and should not impose additional regulatory requirements or case-by-case permitting obligations beyond those already established. Public water agencies need clear, workable direction in advance so they can proceed with necessary flushing activities promptly while remaining mindful of potential impacts to receiving waters.

Conclusion

ACWA is ready to collaborate with State Water Board in further discussion and workshops, and we appreciate the opportunity to provide input on this effort. Please do not hesitate to contact me at nickb@acwa.com or (916) 441-4545 if you have any questions regarding ACWA's input.

Sincerely,



Nick Blair
Senior Policy Advocate

cc: The Honorable E. Joaquin Esquivel, Chair, State Water Resources Control Board
The Honorable Dorene D'Adamo, Vice Chair, State Water Resources Control Board
The Honorable Laurel Firestone, Member, State Water Resources Control Board
The Honorable Sean Maguire, Member, State Water Resources Control Board
The Honorable Nichole Morgan, Member, State Water Resources Control Board
Mr. Eric Oppenheimer, Executive Director, State Water Resources Control Board
Mr. Marwan Khalifa, Interim Executive Director, ACWA
Ms. Chelsea Haines, Regulatory Relations Director, ACWA