



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103-2852**

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

District of Columbia Water and Sewer Authority
c/o Ms. Maureen Schmelling
Director, Water Quality and Technology
1385 Canal Street SE
Washington, DC 20003

**RE: Notice of Violation and Opportunity to Confer
District of Columbia Water and Sewer Authority
PWS ID No. DC0000002
Docket # SDWA-03-2023-001-VS**

Dear Ms. Schmelling:

This Notice of Violation ("Notice") is being issued pursuant to Section 1414(a) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300g-3(a). Based on our records, the United States Environmental Protection Agency ("EPA") finds that the District of Columbia Water and Sewer Authority ("DC Water") Public Water System has violation certain provisions of the SDWA, 42 U.S.C. §§ 300f-300j-26, and the National Primary Drinking Water Regulations ("NPDWR") found in 40 C.F.R. Part 141. Based on information we possess:

1. DC Water ("Respondent") is a supplier of water and owner/operator of the DC Water Public Water System Identification Number DC0000002 ("System").
2. Respondent is a "person" as defined by Section 1401(12) of the SDWA, 42 U.S.C. §300f(12), and 40 C.F.R. § 141.2.
3. The System is a public water system ("PWS") that serves a population of approximately 632,323 persons with piped water for human consumption, for a minimum of six months per year, and has 140,000 service connections. Therefore, DC Water is a community water system as defined by Section 1401 of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. §141.2
4. The System is a public water system that provides water purchased from a surface water source.
5. Under the Revised Total Coliform Rule ("RTCR"), the System is required to collect a minimum number of 240 samples per month for total coliform in accordance with 40 C.F.R. § 141.857(b).

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6. DC Water has an approved RTCR sampling site plan as required by 40 C.F.R. § 141.853(a)(1). The System is required to take at least the minimum number of required samples per 40 C.F.R. § 141.853(a)(3).
7. Under the Surface Water Treatment Rule, the System is required to measure the residual disinfectant concentration at least at the same points in the distribution system and at the same time as total coliforms are sampled in accordance with 40 C.F.R. § 141.74(c)(3)(i).
8. DC Water submitted 249 and 258 total coliform and disinfectant residual samples collected during the December 1 to December 31, 2022 and January 1 to January 31, 2023 monitoring periods, respectively, to meet the requirements of the RTCR at 40 C.F.R. § 141.853(a)(3) and 141.857(b) as well as the Surface Water Treatment Rule at 40 C.F.R. § 141.74(c)(3)(i).
9. On February 17, 2023, DC Water submitted a request to EPA to invalidate 24 of the samples collected during the January 1 to January 31, 2023 monitoring period. On March 3, 2023, DC Water submitted a request to EPA to invalidate 14 of the samples collected during the December 1 to December 31, 2022 sampling period. DC Water submitted the invalidation requests due to the alleged falsification of samples by the sample collector. EPA approved DC Water's invalidation requests on March 20, 2023.
10. As a result of the invalidation of the 24 samples, DC Water only collected 234 total coliform and disinfectant residual samples during the January 1 to January 31, 2023 monitoring period. Therefore, DC Water failed to collect the minimum number of samples during the January 1 to January 31, 2023 monitoring period as required by the RTCR at 40 C.F.R. § 141.853(a)(3) and 141.857(b), as well as the Surface Water Treatment Rule at 40 C.F.R. § 141.74(c)(3)(i).
11. As a result of the invalidation of the 14 samples, DC Water only collected 235 total coliform and disinfectant residual samples during the December 1 to December 31, 2022 monitoring period. Therefore, DC Water failed to collect the minimum number of samples during the December 1 to December 31, 2022 monitoring period as required by the RTCR at 40 C.F.R. § 141.853(a)(3) and 141.857(b), as well as the Surface Water Treatment Rule at 40 C.F.R. § 141.74(c)(3)(i).
12. Pursuant to 40 C.F.R. § 141.851(e), failure to comply with the requirements of 40 C.F.R. §§ 141.851 through 141.861 is a violation of the National Primary Drinking Water Regulations.

Based on information currently available, the EPA finds that Respondent is in violation of certain provisions of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. §§ 300f-300j-26, and the National Primary Drinking Water Regulations ("NPDWR") found in 40 CFR Part 141. By this Notice, the EPA is extending to you an opportunity to advise the Agency, in person, via a conference call, or in writing, of any further information the EPA should consider with respect to the alleged violations.

DC Water must issue a Tier 3 public notice for the failure to collect the minimum number of samples as required by the RTCR within one year of learning of the violation or situation pursuant to 40 CFR §141.204(b)(1). Tier 3 public notices must meet the requirements in 40 C.F.R. § 141.205(a) and must be provided to the public through the delivery methods listed in 40 C.F.R. § 141.204(c). DC Water must send a copy of the notice and a certification statement to EPA within 10 days after providing the notice to the public in accordance with 40 C.F.R. § 141.31(d).

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This Notice of Violation directs you to resolve any outstanding compliance issues. If the System has not complied with the SDWA after thirty (30) days from the date of this notice, EPA is authorized to issue an Administrative Order under Section 1414(g) requiring the System to comply and civil penalties may be assessed.

Prior to initiating such an action, EPA is providing DC Water the opportunity to confer to show cause as to any reason why EPA should not pursue a formal enforcement for the aforementioned violations and to show that the System is in compliance with the SDWA. Please contact Sara Calcinore at (215) 814-2043 or calcinore.sara@epa.gov within ten (10) business days of receipt of this letter if you would like to confer and/or to discuss your plans to return to compliance.

In the event that your System may be a "small business" under the Small Business Regulatory Enforcement Fairness Act, the "Information for Small Businesses"¹ provides information on contacting the Small Business Regulatory Enforcement Fairness Act Ombudsman to comment on federal enforcement and compliance activities and provides information on compliance assistance. As noted in the sheet, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, does not create any new rights or defenses under law, and will not affect EPA's decision to pursue any potential enforcement actions. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement actions.

If you have any information relating to the above violations, or questions regarding any of the above, please contact Sara Calcinore, Safe Drinking Water Act and Wetlands Section, at (215) 814-2043 or calcinore.sara@epa.gov.

Sincerely,

Karen Melvin, Director
Enforcement and Compliance Assurance Division

cc: Gregory Hope, District of Columbia Water and Sewer Authority (gregory.hope@dcwater.com)
Alysa Zirilli, Water Division, EPA Region 3 (zirilli.alysa@epa.gov)

¹ <https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf>