

IROQUOIS *Healthcare Association*

Representing 54 hospitals and health systems in 32 counties of Upstate New York

PROTECTION AGAINST LEGIONELLA (NYCRR TITLE 10 PART 4)

Updated Nov 4, 2016

On July 6, 2016, New York State adopted permanent regulations titled [Protection Against Legionella \(NYCRR Title 10 Part 4\)](#) requiring all cooling towers be registered and regularly maintained. Hospitals and residential facilities are also required to conduct an environmental assessment and adopt/implement a potable water sampling and management plan.

The permanent regulations are based on and replace emergency regulations adopted in August, 2015 after a cooling tower in the South Bronx was identified as the source of a Legionella outbreak from which 138 people were sickened and 16 died.

Background

The new regulations are based on and replace emergency regulation adopted in August, 2015 after a cooling tower in the South Bronx was identified as the source of a [Legionella outbreak](#) from which 138 people were sickened and 16 died. A recent [CDC review](#) of Legionellosis investigations between 2000 and 2014 revealed that 57 percent of cases and 85 percent of fatalities were associated with health care facilities.

Cooling towers were not regulated by the state prior to August, 2015. There are no federal standards or regulations pertaining to registration, maintenance, or testing of cooling towers.

Legionellosis reporting requirements existed prior to the emergency regulation under the *New York State Sanitary Code (10NYCRR 2.10 and 2.14)*. Health care facilities and providers are required to report suspected or confirmed Legionellosis and other nosocomial infections to the local health department where the patient resides. This requirement remains in effect.

Summary of Provisions

Cooling Tower Registration & Reporting: Owners must register cooling towers and report certain actions through a [statewide electronic system](#). Reportable events include date of sample collections; date of cleaning and disinfection; start and end dates of any shutdown lasting more than five days; dates of last inspection and when due; dates of last certification and when due; and date of discontinued use. These events must be reported within 10 days of occurrence. A state [database](#) provides public information on cooling tower location, intended use, sampling and inspection. Registration and reporting requirements took effect September 16, 2015 pursuant to the emergency regulations.

Environmental Assessment: Hospitals and residential facilities are required to perform an annual [environmental assessment](#) to evaluate the building and potable water systems, and identify sampling locations. The initial assessment was required by September 1, 2016 and must be updated annually (*10 NYCRR Sec. 4-2.3*).

An environmental assessment involves reviewing facility characteristics, hot and cold water supplies, cooling and air handling systems, and any chemical treatment systems. The purpose of the assessment is to discover any vulnerabilities that would allow for amplification of *Legionella* and to determine appropriate response actions in advance of any environmental sampling for *Legionella*. Initial and ongoing assessment should be conducted by a multidisciplinary team that includes representatives from Infection Control, Physical Facilities Management, Engineering, Clinicians, Laboratory, and Hospital Management.

Legionella Sampling and Management Plan: Hospitals and residential facilities must also adopt and implement a sampling and management plan for potable water systems by December 1, 2016. This includes routine *Legionella* culture sampling and analysis and immediate *Legionella* sampling and analysis under specific conditions, including where NYSDOH determines that one or more cases of Legionellosis is or may be associated with the facility (*10 NYCRR Sec. 4-2.4*). *Legionella* culture sampling and analysis must be conducted at intervals no greater than 90 days for the first year and annually thereafter. Potable water systems that serve stem cell or organ transplant patients must be sampled and analyzed at intervals not to exceed 90 days even after the first year (*10 NYCRR Sec. 4-2.4.a*). The Maintenance Program Plan requirements took effect pursuant to the emergency regulation on March 1, 2106. Sampling Plan requirements take effect December 1, 2016 pursuant to the permanent regulation.

Additionally, the regulations require hospitals and residential health care facilities to:

- Use a laboratory that is approved by the NYS Environmental Laboratory Approval Program (ELAP) to perform all *Legionella* culture analyses. Currently, there are laboratories with interim certification. See the NYSDOH [FAQ document](#) for additional information. Questions may be directed to: elap@health.ny.gov.
- Retain all specified records including the environmental assessment form, the sampling and management plan, and any associated sampling results on the facility's premises for a minimum of three years and make such records available to the Department upon request.
- Provide appropriate response actions for *Legionella* culture sampling results in accordance with the provisions of *Subpart 4-2, Appendix 4-B*:
 - Where results are at least 30% positive, immediately institute short-term control measures and notify the Department.
 - Where results are at least 30% positive on a persistent basis, conduct long-term control measures with the direction of a qualified professional and review by the Department.

The notification of the Department required per *Appendix 4-B* described above should be sent to hcf.legionella@health.ny.gov with the subject line “30% results” and include:

- facility’s name and contact information;
- number of samples collected;
- number of samples positive for *Legionella* culture;
- current treatment and corrective action/short-term measures;
- name and contact information for the *Legionella* control vendor/consultant.

Any patient or resident who develops signs/symptoms of pneumonia 48 hours or more after admission should be tested for healthcare facility-associated Legionnaires’ disease as clinically indicated. Testing should include a chest radiograph, a *Legionella* urinary antigen test, and respiratory culture for *Legionella*. [Reporting](#) of suspect and confirmed cases of Legionellosis is mandated under *New York State Sanitary Code (10 NYCRR 2.10, 2.14)*.

The Department issued a [Health Advisory](#) to Article 28 [hospitals](#) and [nursing homes](#) providing guidance on prevention and control of Legionellosis. While this Health Advisory is under revision to ensure it is consistent with the permanent regulations, elements of this guidance (with the exception of the cooling tower provisions) should be helpful.

For those facilities that have cooling towers, *Subpart 4-1* of the regulation set forth the requirements specific to cooling towers. Specifically, *Subpart 4-1* requires that cooling tower owners register their tower(s); adopt and implement a maintenance program and plan; submit samples for *Legionella* culture analysis to an ELAP-approved laboratory; have their tower(s) inspected and certified; and retain records for a minimum of three years.

Additional Information and Assistance

- For questions concerning the cooling tower regulations in *Subpart 4-1*, contact the Bureau of Water Supply Protection at (518) 402-7650 or Cooling.Tower@health.ny.gov.
- For questions concerning *Subpart 4-2*, please contact the Bureau of Water Supply Protection at (518) 402-7650 or hcf.legionella@health.ny.gov.
- For clinical questions related to healthcare facility-associated Legionellosis, contact the Bureau of Healthcare Associated Infections at ICP@health.ny.gov or call your regional epidemiologist at:
 - Capital District Regional Office (518) 474-1142
 - Central New York Regional Office (315) 477-8166
 - Metropolitan Regional Office (914) 654-7149
 - Western Regional Office (716) 847-4503
- For questions concerning ELAP and approved laboratories to conduct *Legionella* culture analysis, please direct them to elap@health.ny.gov.