



## Department of Health

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**DATE:** August 12, 2016

**TO:** All New York State Licensed Article 28 Hospitals and Nursing Homes, New York State Department of Health Regional and District Offices, Local Health Departments

**FROM:** New York State Department of Health, Center for Environmental Health

### Health Advisory:

#### Regulation for the Protection Against *Legionella*

Please distribute immediately to: Hospital Epidemiologists, Infection Preventionists, Infectious Disease, Physicians, Medical Directors, Laboratory Directors, Pharmacy Directors, Nursing Administration, Plant Engineers, Risk Managers, and Administrators

Part 4 of the New York State Sanitary Code Protection Against *Legionella*, became effective on July 6, 2016, and can be viewed in full at:

[http://www.health.ny.gov/regulations/recently\\_adopted/docs/protection\\_against\\_legionella.pdf](http://www.health.ny.gov/regulations/recently_adopted/docs/protection_against_legionella.pdf)

The regulations (beginning on page 11 of the above link) were published in the *State Register* on April 20, 2016 for a 45-day public comment period. The comments and the Department's responses can be viewed in the Assessment of Public Comment at the link above (beginning on page 59).

The permanent regulations are divided into two subparts, with Subpart 4-1 covering cooling towers and Subpart 4-2 covering the potable water systems of general hospitals and residential health care facilities as defined in Article 28 of the Public Health Law. The permanent regulations replace the emergency regulations, which had been in effect since August 17, 2015.

Subpart 4-2 of the regulations require all general hospitals and residential health care facilities to:

- Perform and update an environmental assessment, using forms provided by the Department, by September 1, 2016. The environmental assessment form can be found at <http://www.health.ny.gov/forms/doh-5222.pdf>
- Adopt and implement a *Legionella* sampling and management plan by December 1, 2016 for the facility's potable water system that includes routine *Legionella* culture sampling and analysis and immediate *Legionella* sampling under specific conditions. The plan shall include a schedule to conduct:
  - Routine *Legionella* culture sampling and analysis at intervals not to exceed 90 days in the first year and annually thereafter. Potable water systems that serve

hematopoietic stem cell transplant and solid organ transplant patients must be sampled and analyzed at intervals not to exceed 90 days.

- Immediate *Legionella* sampling following a determination by the Department or local health department that one or more cases of legionellosis is or may be associated with a facility or following other conditions specified by the Department.
- Use a laboratory that is approved by the New York State Environmental Laboratory Approval Program (ELAP) to perform all *Legionella* culture analyses. Currently, there are laboratories with interim certification. For information regarding these laboratories, please direct questions to [elap@health.ny.gov](mailto: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 *Legionella* culture sampling results are at least 30% positive for a representative number of sampling points in a facility, immediately institute short-term control measures and notify the Department.
  - Where *Legionella* culture sampling results are at least 30% positive on a persistent basis, conduct long-term control measures in accordance with the direction of a qualified professional with ongoing review of the Department.

The notification of the Department required per Appendix 4-B described above should be sent to [hcf.legionella@health.ny.gov](mailto:hcf.legionella@health.ny.gov) with the subject line "30% results." The notification should include:

- facility's name and contact information;
- number of samples collected;
- number of samples positive for *Legionella* culture;
- current treatment used for *Legionella* control (if any), corrective action and/or short-term measures instituted for the control of *Legionella*;
- name and contact information for the vendor/consultant working with the facility for *Legionella* control.

Any patient or resident who develops signs and/or symptoms of pneumonia 48 hours or more after admission to a healthcare facility 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* spp. Reporting of suspect and confirmed cases of legionellosis is mandated under the New York State Sanitary Code (10 NYCRR 2.10, 2.14). For more information about reporting, please visit:

<http://www.health.ny.gov/professionals/diseases/reporting/communicable/infection/reporting.htm>

On August 10, 2015, the Department issued a Health Advisory to all Article 28 hospitals and nursing homes that provided guidance for the Prevention and Control of Legionellosis in Healthcare facilities. While this Health Advisory is under revision to ensure it is consistent with

the Department's permanent Part 4 regulations, elements of this guidance (with the exception of the cooling tower provisions) should be helpful. The Health Advisory can be viewed at:

[http://www.health.ny.gov/diseases/communicable/legionellosis/docs/2015-08-10\\_health\\_advisory.pdf](http://www.health.ny.gov/diseases/communicable/legionellosis/docs/2015-08-10_health_advisory.pdf)

Finally, for those facilities that have cooling towers, the 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.

For questions concerning the cooling tower regulations in Subpart 4-1, please contact the Bureau of Water Supply Protection at (518) 402-7650 or [Cooling.Tower@health.ny.gov](mailto: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](mailto:hcf.legionella@health.ny.gov).

For clinical questions related to healthcare facility-associated legionellosis, please contact the Bureau of Healthcare Associated Infections at [JCP@health.ny.gov](mailto:JCP@health.ny.gov) or call your regional epidemiologist at:

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|----------------------------------|----------------|
| 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](mailto:elap@health.ny.gov).