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LEGIONNAIRES' DISEASE OUTBREAK HITS NYC: WHAT EMPLOYERS ACROSS THE COUNTRY NEED TO KNOW ABOUT PREVENTION AND LEGAL EXPOSURE

Insights
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Legionnaires' Disease Outbreak Hits NYC: What Employers Across the Country Need to Know About Prevention and Legal Exposure

A Legionnaires' disease outbreak on Manhattan's Upper East Side has sickened dozens of people since early July, hospitalized more than a dozen, and claimed at least five lives this month, putting the spotlight on a workplace safety issue that many employers assume doesn't apply to them. Legionnaires' is a severe form of pneumonia caused by Legionella bacteria, spreading through contaminated water systems found in office buildings, hotels, gyms, hospitals, and manufacturing facilities. But this issue should catch the attention of any employer that owns, operates, or leases space in buildings with cooling towers or complex water systems across the country. This Insight summarizes what's going on and provides tips on protecting your employees and limiting legal exposure.

What's Happening

New York City health officials confirmed over 80 cases and 15 hospitalizations tied to the Upper East Side as of mid-July, with the city reporting five associated deaths to date. This is the second time in as many summers that a major cluster has emerged in New York City, following a Central Harlem outbreak last year that sickened more than 100 people and killed seven.

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The source of these outbreaks is almost always the same: cooling towers, which sit atop large buildings as part of HVAC systems and can harbor Legionella bacteria in stagnant, warm water. Last year's Central Harlem outbreak was ultimately traced to a dozen cooling towers across 10 buildings, including a hospital and a public health clinic.

Legionnaires' disease is not contagious between people. It spreads when someone breathes in water droplets or mist containing the bacteria. Beyond cooling towers, common sources include hot tubs, decorative fountains, large or aging plumbing systems, humidifiers, and misting equipment. Bacteria grow fastest in water that sits stagnant at warm-but-not-hot temperatures, which is why irregularly used or poorly maintained systems tend to pose the greatest risk.

This Isn't Just a New York City Problem

Legionnaires' outbreaks are a nationwide issue – in just the past year, confirmed clusters have hit hospitals in Pittsburgh and Santa Clara, an Orlando gym, and a hotel in Atlanta (where one guest died and the property was fully evacuated and closed).

Employers Most Likely to Be Affected

- **Commercial and multi-tenant building owners and operators**, particularly those with centralized cooling towers or older HVAC infrastructure
- **Hotels and hospitality businesses**, especially properties with pools, hot tubs, or spa facilities
- **Hospitals, senior living facilities, and other healthcare operators**, because of complex water systems and because their populations are at higher risk for severe illness
- **Gyms and fitness centers** with pools, hot tubs, or steam rooms
- **Manufacturing and industrial facilities** that rely on cooling towers or evaporative cooling processes
- **Resorts and large recreational facilities** with extensive water infrastructure

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The Legal Landscape

There's no single federal standard specifically addressing Legionnaires' disease, but that doesn't mean employers are off the hook. A patchwork of local and state rules already applies, and OSHA's general duty clause fills in the rest.

Local ordinances

New York City enacted mandatory cooling tower registration, inspection, and testing requirements after its 2015 outbreak. Meanwhile, several other jurisdictions (like New Jersey and Illinois) have adopted or are considering similar rules. Employers operating in multiple cities need to check requirements building by building.

OSHA's general duty clause

In the absence of a specific standard, OSHA can still cite an employer under the general duty clause if a workplace contains a "recognized hazard" likely to cause serious harm. An untested, unmaintained water system that later turns out to be a *Legionella* source can become exactly that kind of hazard if OSHA makes such a determination, even without a specific regulation requiring testing.

Vendor and contractor responsibility

Many employers don't maintain their own cooling towers or water systems. A third-party building management company or HVAC contractor often handles it. This is a good time to confirm, in writing, which party is contractually responsible for testing, monitoring, and remediation, and whether existing indemnification language actually covers a contamination event like this one.

Proactive Steps to Prevent an Outbreak

- Confirm **registration and testing status** for any cooling towers on your property with your local health department or building code authority
- Establish a **routine water management plan** covering cooling towers, hot tubs, decorative fountains, and any large or complex plumbing systems, consistent with CDC and ASHRAE guidance
- Document **testing and maintenance records**, since these become critical evidence if a claim or investigation follows

- Confirm in writing which party (building owner, tenant, or contractor) is responsible for **testing and remediation**, and check that indemnification and insurance provisions actually address this risk
- Review **property and casualty insurance coverage** to confirm contamination and remediation costs are addressed
- Pay particular attention to systems that **sit idle or underused** for extended periods, since stagnant water increases risk

If You Suspect or Have a Confirmed Case at Your Workplace

- Take any employee report of **flu-like symptoms** following potential exposure seriously, and encourage prompt medical attention – particularly for employees over 50 or with chronic lung conditions or weakened immune systems
- Consider **engaging an Industrial Hygienist** to perform testing when employees have symptoms or you have a positive test in your workplace
- Notify the **local health department** promptly if a case is confirmed or suspected to be linked to your facility; most jurisdictions require this
- Engage a **qualified remediation contractor** immediately to test and treat any potentially implicated water systems
- Communicate with **building occupants and staff** carefully. People will want information about potential exposure, but employers should share only what's necessary about the situation and avoid disclosing an affected individual's specific health information
- Loop in **legal counsel** early if a case is confirmed, particularly where multiple people may have been exposed or where media attention is likely

Conclusion

We will continue to monitor developments in this area and provide updates as warranted, so make sure you are

subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, any attorney in our [Workplace Safety and Catastrophe Management Practice Group](#), or any attorney in our [New York City office](#).