



Legislation Text

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Preconsidered Int. No. 866

By The Speaker (Council Member Mark-Viverito) and Council Members Gibson, Johnson, Williams, Arroyo, Barron, Constantinides, Eugene, Kallos, Koo, Koslowitz, Mealy and Wills (in conjunction with the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to regulation of cooling towers

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 317 to read as follows:

ARTICLE 317  
COOLING TOWERS

§ 28-317.1 General. All owners of cooling towers shall comply with this article and the rules of the department.

§ 28-317.2 Definitions. As used in this article, the following terms shall have the following meanings:

COOLING TOWER. The term “cooling tower” means a cooling tower, evaporative condenser or fluid cooler that is part of a recirculated water system incorporated into a building’s cooling, industrial process, refrigeration, or energy production system.

§ 28-317.3 Registration. All owners of cooling towers shall register such towers with the department prior to initial operation in a form and manner as required by the commissioner and shall include, at a minimum, the following information:

1. Address of the building at which the cooling tower is located;
2. Intended use of cooling tower;
3. Name, address, telephone number and email address of owner;
4. Manufacturer of the cooling tower;
5. Model number of the cooling tower;

6. Specific unit serial number of the cooling tower;

7. Cooling capacity (tonnage) of the cooling tower;

8. Basin capacity of the cooling tower; and

9. Commissioning date of the cooling tower.

**Exception:** Owners of existing cooling towers shall register such towers within 30 days after the effective date of this section.

**§ 28-317.3.1 Discontinued use.** The owner or operator of a cooling tower shall notify the department within 30 days after removing or permanently discontinuing use of a cooling tower. Such notice shall include a statement that such cooling tower has been drained and sanitized in compliance with the requirements of the department of health and mental hygiene for discontinuance of a cooling tower.

**§ 28-317.4 Inspecting, cleaning, disinfecting and testing.** All cooling towers shall be inspected, tested, cleaned and disinfecting in accordance with section 17-194.1 of the administrative code and the rules of the department of health and mental hygiene.

**§ 28-317.5 Annual certification.** The owner or operator of a cooling tower shall file a certification each year that such cooling tower was inspected, tested, cleaned and disinfecting in compliance with section 17-194.1 of the administrative code and the rules of the department of health and mental hygiene, and that a maintenance program and plan has been developed and implemented as required by such section. Such certification shall be submitted by November 1, 2016 and by November 1 of each year thereafter, or as otherwise specified in the rules of the department.

**§ 28-317.6 Fees.** The department may charge filing fees for registration, discontinuing of use and annual certification as set forth in the rules of the department.

**§ 28-317.7 Enforcement.** Failure to register a cooling tower or submit a certification or statement required by this article shall be classified as a major violation.

§ 2. The administrative code of the city of New York is amended by adding a new section 17-194.1 to read as follows:

§ 17-194.1 a. Definitions. For the purposes of this section, the following terms have the following meanings:

**Building.** The term “building” has the same meaning as in section 28-101.5 of this code.

**Cooling tower.** The term “cooling tower” has the same meaning as in section 28-317.2 of this code.

Owner. The term “owner” has the same meaning as in section 28-101.5 of this code.

b. Registration. An owner of a building that has a cooling tower shall register the cooling tower with the department of buildings in accordance with article 317 of chapter 3 of title 28 of this code.

c. Maintenance program and plan. An owner of a building that has a cooling tower shall develop and implement a maintenance program and plan for such cooling tower that is in accordance with sections 5, 6, and 7.2 of the American society of heating, refrigeration and air-conditioning engineers standard 188 for the year 2015 (ASHRAE 188-2015) and with the manufacturer’s instructions. Such program and plan shall be developed by a qualified person.

d. Cleaning and disinfection after extended shut-down. At a minimum, an owner shall clean and disinfect cooling towers that are shut-down for more than five days. Cleaning and disinfection shall occur within 15 days before the use of such tower.

e. Minimum requirements for inspections and testing. At a minimum, cooling towers, other than cooling towers whose use has been permanently discontinued and for which a notice of such discontinuation has been sent to the department of buildings, shall be inspected and tested at least as frequently as every three months during periods of the year such cooling towers are in use.

1. Each inspection shall include an evaluation of the cooling tower and associated equipment for the presence of organic material, biofilm, algae and other visible contaminants.

2. Each inspection shall include a test for the presence of microbes in the water of the cooling tower. The department shall by rule establish (i) the targets and acceptable methods of microbial testing and laboratory analysis, (ii) the levels of microbes in cooling towers that are indicative of a maintenance deficiency requiring mitigation, including but not limited to maintenance to prevent potential health risks, and (iii) the levels of microbes in cooling towers that present a serious health threat and require immediate action and reporting.

(a) Where the results of any such test indicate levels of microbes that are indicative of a

maintenance deficiency requiring mitigation, including but not limited to maintenance to prevent potential health risks, the owner of the building that has such cooling tower shall, within 48 hours after such owner knows or reasonably should know of such results, clean and disinfect the cooling tower in accordance with the rules of the department.

(b) Where the results of any such test indicate levels of microbes that present a serious health threat, the owner of the building that has such cooling tower shall, within 24 hours after such owner knows or reasonably should know of such results, (i) notify the department and (ii) clean and disinfect the cooling tower, including an additional application of biocide, in accordance with the rules of the department.

f. Inspections, cleaning and disinfection. All inspections, cleaning and disinfection required by this section shall be performed by or under the supervision of a qualified person.

g. Abatement. Where an owner does not clean and disinfect a cooling tower within the time and manner set forth in subdivision e, the department may serve an order on the owner requiring compliance within a specified time. If such order is not complied with the department may authorize any agency of the city to act as agent of the department in executing such order and may recover the costs of such execution from the owner in accordance with any of the methods set forth in sections 17-149 through 17-158.

h. Recordkeeping. An owner shall keep and maintain records of all inspections and tests performed pursuant to this section for at least three years. An owner shall maintain a copy of the maintenance program and plan required by subdivision c of this section on the premises where a cooling tower is located. Such records and plan shall be made available to the department immediately upon request.

i. Enforcement. 1. An officer, employee or agent of the department may enter onto any property to inspect the cooling tower, and review and obtain a copy of any records or plan required to be kept under subdivision h of this section, for compliance with the requirements of this section or any of the rules promulgated thereunder, in accordance with applicable law.

2. (i) Any owner of a building who violates any provision of this section or any of the rules

promulgated thereunder shall be liable for a civil penalty of not more than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that such owner shall be liable for a penalty of not more than \$10,000 for any violation that is accompanied by or results in a fatality or serious injury.

(ii) In addition to any civil penalties under this subdivision, a violation of an order pursuant to subdivision g of this section shall be a misdemeanor punishable by a fine of not more than \$25,000 or imprisonment for not more than one year, or both.

(iii) A notice of violation served for civil penalties pursuant to this section shall be returnable at the environmental control board or any tribunal established within the office of administrative trials and hearings.

j. Electronic reporting. The department may require any submission required by this section be submitted electronically.

§ 3. a. The commissioner of the department of health and mental hygiene, in consultation with the department of buildings, shall submit a report to the mayor and the speaker of the city council on or before May 15 each year until May 15, 2025 reporting on the following information for the prior year:

(i) The number of new cooling tower registrations and the number of notifications of discontinued use of a cooling tower pursuant to section 28-317.3 of the administrative code received by the department of buildings through November 1 of the prior year;

(ii) The number of annual certifications that a cooling tower was inspected, tested, cleaned and disinfected pursuant to section 28-317.5 of the administrative code received by the department of buildings through November 1 of the prior year;

(iii) The number of reports of tests for the presence of microbes that reveal levels that present a serious health threat received by the department of health and mental hygiene pursuant to paragraph 2 of subdivision e of section 17-194.1 of the administrative code;

(iv) The number of inspections of cooling towers conducted pursuant to subdivision h of section

17-194.1 of the administrative code and the rules of the department of health and mental hygiene, along with the number and types of any violations cited during such inspections;

(v) The number of cleanings, disinfections or other actions performed by or behalf of the department pursuant to subdivision f of section 17-194.1 of the administrative code; and

(vi) The number of persons diagnosed with legionnaires' disease in the city in each of the previous 10 years, to the extent known or reasonably discoverable by the department of health and mental hygiene.

b. On or before March 1, 2016, the commissioner of the department of health and mental hygiene shall submit a report to the mayor and the speaker of the city council that includes an assessment and recommendations on whether this local law should be amended to include requirements for any of the building water systems described in the American society of heating, refrigeration and air-conditioning engineers standard 188 for the year 2015 (ASHRAE 188-2015) in addition to cooling towers.

c. On or before March 1, 2017, the commissioner of the department of health and mental hygiene shall submit a report to the mayor and the speaker of the city council detailing the implementation of this local law, the effectiveness of the requirements of this local law in preventing outbreaks of legionnaire's disease, and recommendations for improvements or modifications to this local law and any rules promulgated thereunder to further the control of legionella bacteria.

§ 4. This local law takes effect immediately, except that subdivision c of section 17-194.1 of the administrative code as added by section two of this local law shall take effect on March 1, 2016; and that section 28-317.4 of the administrative code, as added by section one of this local law, and subdivisions e, f, g, h and i of section 17-194.1 of the administrative code, as added by section two of this local law, shall take effect upon the promulgation of rules by the department of health and mental hygiene.

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