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ENVIRONMENTAL ALERT | NIXON PEABODY LLP

MAY 4, 2020



## Will your building's water system be ready to return to work when your employees are?

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As businesses make plans to re-open, certain precautions are recommended regarding re-opening of buildings, whether you are the landlord, the tenant, or an owner-operator. Such precautions include cleaning and disinfecting to minimize the potential for COVID-19 and other employment issues described in [“Coming back from COVID-19—Employment issues to consider now before reopening eventually,”](#) as well as mitigation of the building's water supply to prevent employee sickness (and potentially death), which could lead to costly litigation and regulatory enforcement.

The closure of thousands of buildings happened abruptly, virtually overnight, allowing water sitting in water lines to become stagnant. This stagnation, which may or may not be indicated by such things as unpleasant odor, bad taste, or a difference in color, signifies a change in water quality potentially related to elevated levels of heavy metals and pathogens, including legionella, that can cause serious disease and even death.

Landlords should carefully consider their obligations to tenants with respect to water quality in their buildings. Landlords are frequently responsible under lease agreements for maintaining the utilities within a building, including water, in good working order. However, even without specific lease requirements, landlords should consider proactively taking steps to ensure the water in their buildings is safe before tenants return.

Before tenants return to the premises and before employees are scheduled to return to work, advanced planning is very important, as further described by the United States Center for Disease Control (CDC) [“Guidance for Building Water Systems: Ensure The Safety of Your Building Water System and Devices After a Prolonged Shutdown.”](#) However, this guidance assumes that certain preventive plans and procedures were in place prior to the building shutdown, which often was not the case. The American Society of Plumbing Engineers' (ASPE) step-by-step guide by the International Association of Plumbing and Mechanical Officials, on [Rehabilitating Stagnant Building Water Systems](#) provides additional suggestions on physical actions that could be taken to minimize the potential for harm. These include flushing water systems for at least 10 minutes, including drinking water fountains (flushing these for at least five minutes), exercising care as the first flush water could have the highest concentrations of legionella and other potentially harmful substances.

Other water carrying features, such as floor drains and landscape irrigation systems, should also be addressed.

One of the potential harms from a shutdown water system is legionella bacteria, which can live in water; even minor amounts can survive in municipal water and enter a building's water system. When water is turned off for a prolonged time and allowed to sit within piping, legionella can grow and ultimately be dispersed as an aerosol as water exits faucets, sprinkler systems, etc. The CDC estimates that [10% of those that get sick from the bacteria will die](#). Not surprisingly, numerous legal cases have been brought by people who have had legionella-related diseases and by the relatives of those that have died. Settlements and jury awards range from \$225,000 to over \$10 million (and likely much higher), collected from owners, operators, and managers of not only hotels and hospitals, but also office buildings and factories. Lawsuits may also target architects, engineers, contractors, and system designers. The claims are often based on premises liability (failure of duty to inspect, maintain, repair, operate, and test the water or failure to use reasonable care in maintenance/operation of premises in a reasonably safe manner).

Finally, as is the case with any significant event, building owners and tenants should also contact their risk management professionals and insurance brokers to assess whether and the extent to which there may be insurance available with respect to these issues.

In short, advanced preparation to allow tenants and their employees to return back to their workplaces, including flushing of the water systems and all points of contact, is highly recommended. Landlords, tenants, and owner-occupants all look forward to buildings being reoccupied and employees returning to work. After this long-awaited return, no one wants the building's water to cause sickness and, perhaps, another building closure.

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