

Compliance inspections of high risk manufactured water systems by a third party

The Public and Environmental Health (Legionella) Regulations 2008 (the Regulations) require that registered cooling water systems and warm water systems be inspected for compliance, at least once a year by the relevant authority (generally the local council). Alternatively, the relevant authority can issue a notice to the system owner, requiring that they engage an independent, competent third party to undertake the inspection and prepare a report.

This fact sheet is provided to assist system owners who have received a notice from their local council requiring that they engage a third party to undertake a compliance inspection.

What are the requirements for a compliance inspection?

If you receive a notice under regulation 15(2), you are required to undertake the following:

1. Cause an inspection of the water system to be carried out by a competent person (not being the owner or person responsible for the operation and maintenance of the system)
2. Arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896—
 - a. of at least one sample of water taken from a cooling water system; and
 - b. of at least two samples of water taken from a warm water system,
3. to determine the presence and number of colony forming units of *Legionella* in the water; and
4. Submit to your local council a written report(s) setting out the findings of the inspection and the results of the microbiological testing within 1 month of receiving the report(s).

You are only required to organise your own compliance inspection if your local council has provided you with written notice requiring you to do so pursuant to regulation 15(2).

Can anyone do a compliance inspection?

No. The Regulations require that the inspection be undertaken by a 'competent person', not being the owner or person responsible for the operation and maintenance of the system.

Who is a 'competent person'?

Under the Regulations a 'competent person' is defined as a person who—

- (a) is knowledgeable in the **operation and maintenance** of high risk manufactured water systems; and
- (b) is sufficiently competent to ensure that high risk manufactured water **systems are operated and maintained as required by the regulations**; and
- (c) has **qualifications or training in water treatment** of high risk manufactured water systems.

Can my contractor/contract company perform the inspection?

If your contractor or contract company is nominated as the 'person responsible for the operation and/or maintenance of the system', they cannot perform the inspection required by a regulation15(2) notice. It will be necessary to organise a competent, third party, to perform the inspection and prepare the report setting out the findings of the inspection.

Are there accredited third party compliance inspectors?

No. The South Australian Regulations do not provide provisions for the Department of Health to endorse or accredit persons to conduct independent third party inspections. Any person who meets the criteria specified in the Regulations is able to perform independent compliance inspections in South Australia.

How do I select a third party to undertake a compliance inspection?

The third party performing the inspection must meet the criteria of a 'competent person' and not be the 'person responsible for the operation and/or maintenance of the system'. A third party should also be chosen based upon their knowledge, experience, and ability to conduct a comprehensive inspection and provide a comprehensive report. Selection should be similar to the process used when acquiring any professional service. The third party should be familiar with and thoroughly understand all of the requirements of the Regulations in order to be able to conduct a satisfactory compliance inspection.

What should I consider or ask when selecting a third party?

The Department of Health recommends all of the following to assist in selecting an appropriate third party to undertake a compliance inspection:

- > **Actual and perceived independence** – the third party should not be involved in the day to day operation of the system or belong to or be affiliated with any contracting company engaged by your business.
- > **Competent Person** – Ask prospective third parties how they meet the criteria of a competent person under the Regulations. You may wish to obtain a written statement confirming that they meet the requirements of a 'competent person' and of their independence before engaging their services.
- > **Industry Knowledge and Experience** – Ask prospective third parties of their industry knowledge and experience. You may also wish to ask them of their knowledge and experience in the industry in which your business operates (e.g. process cooling in a plastics environment).
- > **Ability** – the third party must have the ability to provide an appropriate inspection and report to the level and depth required by the notice. Furthermore, they must be able to perform the inspection in the period specified in the notice.
- > **Cost Effective** – Ask prospective third parties for a competitive quote detailing the service they will provide. Cost is important but it essential that the quality of the service provided is sufficient to meet the requirements of the notice and to avoid further inspections by council which may incur a fee.
- > **Professional Association** – Ask prospective third parties if they are a member of any professional associations and how this assists them to conduct their business.
- > **Testimonials** – Ask prospective third parties if they have testimonials from other clients



Who takes the water sample/s?

If you receive a notice under regulation 15(2), you are required to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896—

- (a) of at least one sample of water taken from a cooling water system; and
- (b) of at least two samples of water taken from a warm water system,

to determine the presence and number of colony forming units of *Legionella* in the water.

You or the third party can take water sample(s) from your system(s) and arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896.

For instruction on sampling procedures for microbiological testing, please refer to Schedule 2 of the *Guidelines for the Control of Legionella in Manufactured Water Systems in South Australia* (pages 24-25).

What is involved in a third party inspection?

The third party inspection will determine whether the system is being operated, managed and maintained in compliance with the Regulations. The inspection will include an assessment of log books, operation and maintenance manuals and system plans, as well as a physical inspection of the system. The Department of Health has produced an inspection proforma to assist third parties undertaking a compliance inspection and producing a report.

What happens after the inspection?

The third party will provide you with a written report setting out the findings of the inspection. You are required to submit the inspection report and results of microbiological testing to your local council within one month of receiving the reports.

What if non-compliances are identified?

It is important to address non-compliances immediately to ensure that your system(s) meet the requirements of the Regulations and to ultimately protect public health. Upon receipt of reports, your local council will review the findings of the compliance inspection and follow-up non-compliances with you.

Will my local council inspect after the third party inspection?

Your local council may conduct an inspection at any time, including after a third party inspection. The inspection may be to follow-up on non-compliances or to validate the results of the inspection. If a third party inspection report is found to be incomplete then further inspections may be undertaken by your local council. Inspection fees may apply.

Where to find more information

Your local council

Your local council is the key local contact for registration and general advice about *Legionella* and compliance with the Public and Environmental Health (Legionella) Regulations 2008.

Department of Health - Environmental Services Section

Telephone: (08) 8226 7100

Email: legionella@health.sa.gov.au

Website: www.health.sa.gov.au/pehs, click on 'Environmental Health'

Last updated September 2009