

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

BOARD OF HEALTH

NOTICE OF ADOPTION OF A RESOLUTION TO REPEAL
ARTICLE 27 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Board of Health by §558 of said Charter, notice of intention to repeal Article 27 (Compressed Air in Tanks for Underwater Breathing Use) of the New York City Health Code (the “Health Code”) was published in the City Record on March 23, 2011 and a public hearing was held on the proposal on April 29, 2011. No written comments or testimony were received. At its meeting on June 14, 2011, the Board of Health adopted the following resolution.

Statement of Basis and Purpose

Statutory Authority

These amendments to the New York City Health Code (the “Health Code”) are issued according to §§556, 558 and 1043 of the New York City Charter (the “Charter”). Section 556 of the Charter provides the Department of Health and Mental Hygiene (the “Department”) with to regulate all matters affecting the health in the city of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the “Board”) to amend the Health Code and to include in the Health Code all matters over which the Department has authority. Section 1043 of the Charter gives the Department rulemaking powers.

Basis and purpose of the rule change

As part of a comprehensive review of the Health Code to assess its effectiveness in protecting the public health, the Department requested the Board of Health to repeal Article 27 (Compressed Air in Tanks for Underwater Breathing). Article 27 was adopted by the Board in 1967, “to protect the health of individuals who participate in underwater diving or swimming activities using air compressed in tanks for underwater breathing,” according to the introductory notes to the article. Local Law 14/1966, adding §562-1.0 (renumbered §17-337) to the Administrative Code of the City of New York (Administrative Code), requires a permit to be issued by the Commissioner to sell or distribute compressed air in tanks. It also requires that the Board issue air purity standards, and that such tanks display a certificate indicating compliance with those standards.

By Local Law 21/2010, effective June 1, 2010, the City Council repealed and reenacted Administrative Code §17-337. As reenacted, Administrative Code §17-337 now requires that compressed air filling these tanks comply with the current standard of the Compressed Gas Association (CGA) published in *G-7.1-2004, commodity specification for air* “or a more stringent standard as may be determined by the department.” The reenacted Administrative Code provision no longer requires a permit to be issued by the Commissioner or a certificate of compliance attached to each tank of compressed air. In support of the Council’s repeal, the Department advised the Council that there have been almost no permits issued for sale or distribution of compressed air tanks during the past two decades, and that the Department had no expertise in establishing standards. Also, the Department considers the standards of purity of the CGA to be

sufficiently protective. Moreover, the Department has had no reports during this time that any person has suffered an illness, fatality or other negative condition associated with the quality of the compressed air in such tanks. Accordingly, the Department has requested that the Board repeal this Article in its entirety.

The resolution is as follows.

RESOLVED, that Article 27 (Compressed Air in Tanks for Underwater Breathing Use) and the list of section headings in Article 27 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby are, **REPEALED**.