



**DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH**

**Notice of Adoption of
Amendments to New York City Health Code Article 131**

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, a notice of intention to amend Article 131 of the New York City Health Code (the “Health Code”) was published in the City Record on March 25, 2016 and a public hearing was held on April 27, 2016. One person testified and two written comments were received. No changes have been made to the resolution in response to the comments. At its meeting on June 7, 2016 the Board of Health adopted the following resolution.

Statement of Basis and Purpose

Background

When the Department receives a complaint of persistent perchloroethylene (PERC) odors from occupants of residential and other premises adjacent to or near dry cleaners, an inspection and measurements of PERC are made at the premises. If the level exceeds the nuisance level defined in Health Code §131.17 (“Dry cleaning facilities”), the Department will order the owners of the dry cleaning business and/or the owner of the premises in which the dry cleaner is located to find the cause and abate the nuisance by providing proper exhaust ventilation, adjusting operation of dry cleaning equipment and installing barriers, if necessary, to prevent fumes from escaping.

The Board of Health is amending Health Code §131.17 to reduce the nuisance level for emissions of PERC vapors found in residential, child-occupied and other occupied buildings emanating from dry cleaning facilities located in the same or adjacent buildings. The amendment lowers the current nuisance level from 100 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to $30 \mu\text{g}/\text{m}^3$. The reduction of the nuisance level is based on studies by the US Environmental Protection Administration (EPA), which classifies PERC as “likely to be carcinogenic in humans by all levels of exposure” and a recently revised New York State Department of Health guideline for PERC air levels.¹

EPA’s rules prohibit using PERC in dry cleaning facilities located in residential buildings after December 21, 2020.² Until then, dry cleaning facilities that use PERC must control emissions in accordance with EPA rules.

Statutory Authority

This amendment to the New York City Health Code (the Health Code) is promulgated pursuant to Sections 558 and 1043 of the New York City Charter (the Charter). Section 558(b) and (c) of the Charter empowers the Board of Health (the Board) to amend the Health Code and to include in the Health Code all matters to which the authority of New York City Department of Health and Mental Hygiene (the Department) extends. Section 1043 grants the Department rule-making authority.

¹ See <http://www.health.ny.gov/environmental/chemicals/tetrachloroethene/>

² See 40 CFR §63.322 (o); see also discussion in Federal Register of EPA intent to phase out PERC equipment by 2020, available at <https://federalregister.gov/a/06-6447>

The proposal is as follows:

“Shall” and “must” denote mandatory requirements and may be used interchangeably unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined.

[Deleted material is in brackets.]

RESOLVED, that subdivision (b) of Section 131.17 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, is hereby amended, to be printed together with explanatory notes, to read as follows:

§131.17 Dry cleaning facilities.

* * *

(b) *Nuisance level.* Detection of perchloroethylene vapors from dry cleaning facilities in dwellings, child-occupied facilities, or other occupied premises at levels at or above [100] 30 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) shall constitute a nuisance.

* * *

Notes: Subdivision (b) of §131.17 was amended by resolution of the Board of Health adopted at its meeting on June 7, 2016, reducing the nuisance level for perchloroethylene from 100 to 30 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), reflecting current State Department of Health and US Environmental Protection Administration determinations on its health effects.