

# Proposed PERC Ban Tabled Until 2026

The NJDEP recently launched a Dry Cleaner Replacement Reimbursement Program, under which NJ facilities that operate PERC dry cleaning systems may be eligible for grants to go green ([www.nj.gov/dep/enforcement/drycleangrant.com](http://www.nj.gov/dep/enforcement/drycleangrant.com)).



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**L**ANDLORDS WHO MAY HAVE BEEN HOPING FOR a boost from the New Jersey Department of Environmental Protection (NJDEP) in their efforts to convince their dry cleaning tenants to switch from perchloroethylene (PERC) to alternative less toxic cleaning technologies recently received a setback.

The NJDEP retracted proposed regulations that have been under review for the last several years that not only mandated a switch to dry cleaning equipment which would have limited airborne emissions, but more importantly, eventually required the elimination of PERC use by all New Jersey dry cleaners. Further, the NJDEP cannot re-propose this ban until 2026.

While the main goal behind this rule is to address the possible adverse health effects of PERC as an airborne contaminant, the potential adverse consequences from the continued use of PERC are more far-reaching. The State Coalition for the Remediation of Dry Cleaners estimates that 75 percent of dry cleaners have discharged contaminants into the environment.

Recently there has been a movement toward the use of more “environmentally friendly” solvents (i.e. carbon dioxide, silicone-based solvents, etc.); however, most dry cleaning operations continue to utilize PERC as their primary dry cleaning solvent. The use of PERC in the dry cleaning industry became prevalent after World War II, when the use of carbon tetrachloride, trichloroethene and the more flammable dry cleaning solvents like gasoline and kerosene became less prevalent. PERC is utilized not only as the dry cleaning solvent, but can also be found as a component in spotting agents which are utilized to pre-treat stains before the actual cleaning process.

Over the years, significant advances have been made in the efficiency of dry cleaning machines. These advances not only reduced emissions, but significantly reduced the quantities of PERC utilized in the machines themselves. Unfortunately, the continued use of PERC still makes these tenants a potential liability for the unsuspecting landlord.

PERC can be discharged to the environment via incidental spills on the concrete floor that migrate to the underlying soil or the improper storage of filters or other waste materials, the discharge of PERC-contaminated water from the boiler/steam system to drains commonly located in the boiler room, improper equipment maintenance, etc. If the PERC has migrated to either the soil or ground water, the efforts to mitigate the discharges can

be not only costly, but disruptive to the operator, landlord and other tenants who may occupy the site. Additionally, if the contamination has migrated off-site, the property owner could face potential third-party liability claims from the affected parties. Also more recently, vapor intrusion concerns have impacted these facilities.

Therefore, it is important for landlords to work with their tenants to pursue the use of more environmentally friendly cleaning alternatives. The switch to these alternatives, however, can be costly and out of reach for many small businesses. At a minimum, the landlord should work with the tenant to take steps to reduce the likelihood of an inadvertent discharge.

The New Jersey Small Business Environmental Assistance Program (SBAP) publishes a “Dry Cleaner Checklist” (<http://www.state.nj.us/dep/opppc/small/p2ck list.pdf>) which provides housekeeping and material storage suggestions aimed at reducing the likelihood of a discharge.

Most important, the landlord should be diligent in checking to see that the tenant is complying with regulatory requirements. The SBAP also publishes a “Dry Cleaner Compliance Calendar” (<http://www.state.nj.us/dep/opppc/dry09eng.pdf>) that can be utilized to monitor this compliance. The calendar includes a list of applicable regulations and provides the required templates to ensure that the required inspections, monitoring and solvent use tracking are conducted. This calendar, or something similar, should be posted near the dry cleaning machine.

Finally, the landlord should conduct periodic inspections of the leasehold to ensure the tenant is taking the necessary steps to reduce discharges and comply with all applicable regulations. Even if the tenant switches to a more “environmentally friendly” solvent, landlords should still maintain their vigilance. While generally less costly to remediate, these “environmentally friendly” alternatives can still cause undesirable impacts if handled in an inappropriate manner.

In 2021, the NJDEP will begin a five-year study to decide if a ban on PERC needs to be pursued. Until that time, a little oversight and diligence on the part of the landlord could go a long way in reducing future liabilities. ■

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